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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

WAYNE McFARLIN,

Plaintiff,

v.

EDWARD GORMLEY, an individual; CITY
OF McMinnville, a Municipal Corporation;
CITY COUNTY INSURANCE SERVICES
TRUST; ROD BROWN, an individual;
PUBLIC SAFETY LIABILITY MANAGEMENT
INC., an Oregon corporation; WALDO
FARNHAM,

Defendants.

Case No.: 3:06 CV 01594-HU

**DECLARATION OF JAMES M.
MALDONADO IN SUPPORT OF
DEFENDANT FARNHAM'S
MOTIONS FOR SUMMARY
JUDGMENT**

I, James M. Maldonado, under penalty of perjury, declare pursuant to 28 U.S.C. § 1746, as follows:

1. I am over the age of 18 and am one of the attorneys representing defendant Waldo Farnham in this matter.
2. I provide this Declaration in support of Waldo Farnham's motion for summary judgment as to all of plaintiff's claims.
3. Waldo Farnham is 72 years old and has lived in the greater McMinnville area for 71 years.

4. Attached as Exhibit 1 to this Declaration are true and correct excerpts from both Volume I and Volume II of plaintiff's deposition.

5. Attached as Exhibit 2 to this Declaration are true and correct excerpts of the deposition of Mayor Ed Gormley.

6. Attached as Exhibit 3 to this Declaration are true and correct excerpts of the deposition of City Manager Kent Taylor.

7. Attached as Exhibit 4 to this Declaration is a true and correct copy of the October 28, 2005 document entitled "Resignation and Separation Agreement and Release of Claims" signed by plaintiff.

8. Attached as Exhibit 5 to this Declaration are true and correct excerpts of the deposition of Waldo Farnham.

9. Attached as Exhibit 6 to this Declaration is a true and correct copy of the two-page memorandum provided to Mayor Ed Gormley by Waldo Farnham.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED this 12th day of October, 2007



James M. Maldonado

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing **DECLARATION OF JAMES M. MALDONADO IN SUPPORT OF DEFENDANT FARNHAM'S MOTIONS FOR SUMMARY JUDGMENT** on the date indicated below by:

- ☒ mail with postage prepaid, deposited in the US mail at Portland, Oregon,
- ☐ hand delivery,
- ☐ facsimile transmission,
- ☐ overnight delivery,

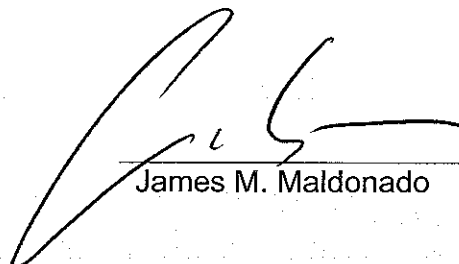
I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to said attorney(s) at the address(es) listed below:

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DATED: October 12, 2007



James M. Maldonado

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

WAYNE MCFARLIN,

Plaintiff,

vs.

Case No. CV060094

EDWARD GORMLEY, an individual,

CITY OF MCMINNVILLE, a

municipal corporation,

Defendants.

VIDEOTAPED DEPOSITION OF RICHARD WAYNE MCFARLIN

Taken in behalf of the Defendants

May 23, 2006

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else other than the language we've already talked about in Section 5?

A. I don't recall anything else.

Q. I'd like you to look on the first page at Section 2 where it says, "On November 30th, 2005, City will pay employee as severance a lump sum equal to three times employee's regular monthly base salary."

Do you see where it says that?

A. Yes.

Q. Who proposed that amount as severance?

A. I asked for severance.

Q. When did you make that request?

A. In the meeting I had on the afternoon of Monday, October 24th.

Q. Who was at that meeting?

A. Mayor Gormley, Council President Rick Olson, City Manager Kent Taylor.

Q. Did you ask for a particular amount for severance?

A. I believe I asked for six months', but I can't recall for sure.

Q. And, to your memory, did you ask for, you believe, six months' severance in this meeting on October 24th?

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conversation with Mr. Taylor?

A. A great concern on my part for having my health -- health -- health insurance premiums paid during the time of the severance.

Q. So you specifically remember raising with Mr. Taylor a desire to have your medical benefits covered for some period of time?

A. Yes.

Q. Do you remember anything else about your conversation with Mr. Taylor regarding the severance portion of this agreement?

A. Well, are you talking about the whole week?

Q. Well, let's -- you said you had a conversation with Mr. Taylor you think the next day. Do I understand you correctly?

A. Yes.

Q. And you've told me that you remember in that conversation asking or having a concern about your medical benefits?

A. Right.

Q. Was there any discussion during that conversation about the amount of severance?

A. No.

Q. Did you have a discussion later on in the

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A. I definitely asked for severance. I can't recall whether I -- I asked it originally -- with regard to the severance, I can't recall.

Q. You recall asking for severance; you don't recall whether you asked for six months' or something more or something else?

A. I didn't ask for anything more, but --

Q. And you can't recall whether you at that meeting said, "I would like six months'." Am I understanding you correctly?

A. With regard to the severance, I can't recall whether that was said.

Q. Did you have any conversations after that meeting with Mr. Taylor about the amount of severance?

A. Yes.

Q. Do you remember when that conversation or conversations took place?

A. I think it might have been the following day. I don't know.

Q. Do you remember how that conversation took place? Was it over the phone, by e-mail, in person?

A. I don't recall.

Q. What do you recall about that

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week with Mr. Taylor about the amount of severance that you were being paid?

A. That's a confusing question. There were -- I had discussions with the three on both Monday and Tuesday, and then one discussion that I -- I believe was just with Mr. Taylor with regard to the health benefits. And following those discussions, I don't recall any more discussion on the severance.

Q. So my question is -- is not about the meetings that you had with the three individuals. My question is aimed at discussions that you had only with Mr. Taylor about the severance. And so if I -- if I understand what you've previously told me, you had one conversation with Mr. Taylor one on one about your concern about medical benefits?

A. Yes.

Q. Is that correct?

A. Correct.

Q. Did you have any other discussions with Mr. Taylor one on one about the amount of severance?

A. No.

Q. Okay. Do you remember when you got this document -- and I believe you said you got it

15 (Pages 54 to 57)

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1 tell you that he had a final document for you to
2 sign?

3 A. On Friday, I believe.

4 Q. Was that by phone call or e-mail or in
5 person?

6 A. It wasn't in person, but I don't recall
7 whether it was e-mail or phone.

8 Q. When — and you said that you signed this
9 in Mr. Taylor's office?

10 A. Yes.

11 Q. So you went to his office, and did he
12 hand it to you when you walked in the door?

13 A. Yes.

14 Q. Did you review it before you signed it?

15 A. Yes.

16 Q. Did you ask Mr. Taylor for more time to
17 review it before you signed it?

18 A. No.

19 Q. Between Wednesday and Friday, did you
20 have any discussions with Mr. Gormley, Mayor
21 Gormley, about wanting more time to consider
22 Exhibit 101?

23 MR. KAY: Does that mean after Monday?

24 MS. O'KASEY: He said he got it on — I'm
25 asking between Wednesday and Friday.

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1 A. I don't believe so.

2 Q. Did you have any questions about Exhibit
3 101 on October 28th when you went in to sign it
4 that you didn't ask Mr. Taylor?

5 A. No.

6 Q. After you signed it, did Mr. Taylor give
7 you a copy of it?

8 A. Yes.

9 Q. Did he give it to you that day?

10 A. Yes.

11 Q. Did you share a copy of the fully-signed
12 agreement with anyone after he gave you your copy?

13 A. Yes.

14 Q. Who was the first person you gave a copy
15 of the signed agreement to?

16 MR. KAY: Object to the form.

17 THE WITNESS: I didn't give a copy of the
18 signed agreement to anyone.

19
20 BY MS. O'KASEY: (Continuing)

21 Q. Who's the first person you showed it to?

22 A. My wife.

23 Q. When did you show it to her?

24 A. That evening.

25 Q. Who was the next person you showed it to?

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1 MR. KAY: Thank you. Excuse me.

2 MS. O'KASEY: He did not have a
3 document —

4
5 BY MS. O'KASEY: (Continuing)

6 Q. My understanding is you did not have a
7 document to look at until Wednesday.

8 Is that correct?

9 A. That's correct.

10 Q. So after you got the draft from
11 Mr. Taylor on Wednesday and before you signed it on
12 Friday, did you have any discussions with Mayor
13 Gormley about wanting more time to consider Exhibit
14 101?

15 A. No.

16 Q. Did you have any discussions with Rick
17 Olson about wanting more time to consider 101?

18 A. No.

19 Q. Did you have any discussions with any of
20 the other council members about wanting more time
21 to consider 101?

22 A. No.

23 Q. Did you ask Mr. Taylor when you went into
24 his office on Friday to sign this document any
25 questions about Exhibit 101?

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1 A. I believe an attorney.

2 Q. When did you first apply for the chief of
3 police position with the Salem Police Department?

4 A. The application was submitted sometime in
5 the middle of September.

6 Q. At the time that you applied in
7 September, did you tell anyone at the police
8 department in McMinnville about your application?

9 A. No.

10 Q. Did you tell any council member about
11 your application?

12 A. No.

13 Q. Did you tell the mayor about your
14 application?

15 A. Yes.

16 Q. When did you tell the mayor about your
17 application?

18 A. I believe the date was October 4th.

19 Q. Was that shortly after you sent in the
20 application or had some time passed?

21 A. A bit of time passed.

22 Q. Why did you choose to tell the mayor on
23 October 4th about your application?

24 A. Because I thought it was the right thing
25 to do.

17 (Pages 62 to 65)

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Q. At that point had you been told by Salem that you were a finalist for that position?

A. I don't think so.

Q. Did you tell anyone else other than the mayor at the city about the application?

A. Yes.

Q. Who?

A. Kent Taylor.

Q. Was that about the same time that you told Mayor Gormley?

A. No.

Q. When did you tell Mr. Taylor?

A. I -- June of 2005.

Q. So you told Mr. Taylor about the application before you actually sent it in?

A. Yes.

Q. And why did you choose to tell Mr. Taylor in June of 2005 about it?

A. I -- I didn't tell him. I asked his advice.

Q. What advice did you ask him about or what were you looking for from Mr. Taylor?

A. I had been asked by the personnel director at the City of Salem if I would be submitting an application for the chief's

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jeopardize my position with City of McMinnville.

Q. What do you recall Mr. Taylor telling you in response to you raising these concerns?

A. He was very encouraging, and he indicated to me that he thought it would be a good thing for me to do. And then he kind of chuckled, and he told me, he says, "But I hope you don't get it."

Q. Between June of 2005 and October 4th of 2005, did you tell anyone else at the city about your application with Salem?

A. I don't recall. I don't -- I don't believe I did.

Q. When you told the mayor on October 4th of 2005 that you had applied for the chief's position, what was his response?

A. He was very encouraging and said he thought that was a -- a worthy thing to do, that others had -- had asked him for -- said that they were going for other positions, and that he's always been encouraging of that kind of positive growth.

Q. Do you remember what stage you were in that process when you told the mayor about the application?

A. It was sometime after submitting it, and

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position. When she asked me, I told her I hadn't thought of it. And before I talked to her any further, I went and talked to Kent Taylor, because he's my boss, because I valued my job at the City of McMinnville very much, and I didn't want to do anything to jeopardize that job, and because I wanted his opinion as my boss and somewhat of a mentor whether it would be a good or a bad thing for me to do to consider applying for the position.

Q. Who was the city -- city administrator that contacted you?

A. Connie Munelle.

Q. Did you know her from your prior employment at the City --

A. Yes.

Q. -- of Salem?

All right. So you went to Mr. Taylor, basically, to tell him that this opportunity was potentially presenting itself and you wanted his ideas as to whether it was a good thing or a bad thing?

A. Yes.

Q. Did you tell him that you were interested in applying for the position?

A. Yes. But I didn't want to do anything to

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I don't think I knew I was a finalist at that time.

Q. Had you been interviewed by any oral board by that time?

MR. KAY: Any what board?

MS. O'KASEY: Oral board.

THE WITNESS: I don't recall. I had a phone interview, but I don't recall precisely when that phone interview took place.

BY MS. O'KASEY: (Continuing)

Q. Was that phone interview with more than one person?

A. Yes.

Q. Do you remember who interviewed you over the phone?

A. The personnel director, Connie Munelle, and the assistant city manager, and I don't recall her name right off.

Q. How long did that interview last?

A. Roughly, 20, 30 minutes.

Q. When -- who -- what was the next time that you told someone at the city about the fact that you applied for the chief's position with Salem after you told Mayor Gormley in October?

A. When I learned I was a finalist, I told

18 (Pages 66 to 69)

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Kent Taylor.

- 2 Q. Do you remember when that was?
3 A. Not precisely. It was mid-October, as
4 best as I can recall.
5 Q. How did you find out that you were a
6 finalist?
7 A. Connie Munelle called me and told me.
8 Q. Did she tell you how many other people
9 were finalists?
10 A. Yes. She said I was one of five
11 finalists.
12 Q. When you told Kent Taylor about this,
13 what was his response?
14 A. I don't recall.
15 Q. Did you tell any council members about
16 the fact that you'd become a finalist after you
17 told Mr. Taylor?
18 A. Not until the meeting of October 24th
19 when they demanded my resignation.
20 Q. Was Mr. Olson the first council
21 member -- and I'm distinguishing him from the
22 mayor for purposes of the question --
23 A. Uh-huh.
24 Q. -- the first council member that you told
25 about being a finalist?

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- 1 A. I believe so.
2 Q. Do you have any information that either
3 Mr. Taylor -- well, let's break it down.
4 Do you have any information that
5 Mr. Taylor told anyone about your application after
6 you discussed it with him in June of 2005?
7 A. I don't know who he told.
8 Q. Do you know if he told anybody?
9 A. No.
10 Q. Did you ask him to keep it confidential?
11 A. Uh-huh.
12 Q. Is that a "yes"?
13 A. Yes. I'm sorry.
14 Q. To your knowledge, did he?
15 A. To my knowledge, he did.
16 Q. When you told Mayor Gormley on October
17 4th of 2005, did you ask him not to tell anyone
18 else?
19 A. I believe I did, but I don't recall.
20 Q. Do you have any information that he told
21 someone else after you told him on October 4th
22 about the application?
23 A. No.
24 Q. Did you at some point announce to your
25 troops that you had applied for this chief position

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- 1 with Salem?
2 A. Yes.
3 Q. Do you remember when you did that?
4 A. The morning of October 25th.
5 Q. Do you remember how you announced it?
6 A. At a -- I did two things. I announced it
7 verbally at the -- at a morning briefing, as I
8 recall, and distributed an e-mail.
9 Q. And why did you choose October 25th to
10 tell the troops that this application was out
11 there?
12 A. Because at the meeting I had with the
13 mayor and the council president and the manager the
14 previous afternoon, they indicated that there
15 was -- that the police department wanted me gone
16 immediately.
17 Q. What about that information made you
18 decide to tell the troops that you had applied for
19 the chief's position with Salem?
20 A. Well, during the meeting, they didn't
21 want me to return to my office that day, and they
22 told me that, "The department wants you to be
23 gone." And I explained that to leave immediately
24 would virtually ruin my chances to be competitive
25 at Salem Police. And that if they were truly

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- 1 concerned about the troops wanting me out, that
2 announcing that fact right away would help take the
3 pressure off what they said was for them to get me
4 out of the department.
5 Q. After you sent out the announcement and
6 made the announcement, did any of your officers
7 come up and talk to you about it?
8 A. Some of the staff came up and talked,
9 yeah.
10 Q. Who talked to you about it?
11 A. My secretary.
12 Q. And what's her name?
13 A. Linda Gardner.
14 Q. Anyone else that you recall coming up
15 right after you announced and -- and asking about
16 it?
17 A. Well, nobody came up right after. I
18 mean --
19 Q. Within the next couple of days, did
20 anyone ask you about it that was in the police
21 department?
22 A. Well, it was a -- a bunch of people.
23 There was a lot of people that talked to me about
24 it, but --
25 Q. In general, what did they -- what did

19 (Pages 70 to 73)

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they say?

A. They expressed a lot of concern that I might be leaving.

Q. What was your response to them when they expressed that concern?

A. I don't recall. I just said -- I -- I don't recall what I said. I -- I do know that I was very concerned about the organization. And I had one discussion in particular with the union president sharing that we needed to work together to make sure that the organization dealt with this news as positively as possible.

Q. Was that Matt Scales?

A. Yes.

Q. Did you seek Mr. Scales out or did he come to you to ask you about your announcement?

A. I went to him.

Q. What was his response to your request that you work together?

A. He seemed affirmative, but he didn't say much.

Q. When -- let me back up.

Did you get interviewed again as a result of being a finalist?

A. Yes.

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Q. Do you remember when that interview took place?

A. Two days of interviews on November 2nd and November 3rd, a Wednesday and a Thursday.

Q. How many people interviewed you?

A. There was a city manager's panel of about six or eight, there was an equal number, roughly, on an employee panel, and then there was a -- a televised discussion with a panel with an audience, and it was televised in the Salem area.

Q. Was that the employee panel, the city manager's panel, or a different panel?

A. The televised panel was a community panel.

Q. Was that on November 2nd or 3rd or some other date?

A. I believe it was the 3rd.

Q. During any of these interviews, were you asked about your employment status with the City of McMinnville?

A. I believe I was. I believe -- I don't know that I was asked, but it came up that I was a chief of police in McMinnville.

Q. And do you recall in response to any questions about your status what your answer was?

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A. It wasn't -- it was more of my experience, not -- not a pending status question.

Q. So no one asked you during any of the interviews, "What is your current status at the City of McMinnville?" It was simply discussed that you were the chief of police of the City of McMinnville?

A. Yes.

Q. Did you tell any of the interviewees that you had resigned or were going to resign?

A. Yes.

Q. Who did you tell?

A. I actually told the personnel director and asked her to reveal it to the city manager.

Q. Was that during an interview or was that during some other conversation?

A. That was during a phone call prior to the interviews.

Q. Was it during a phone call prior to the interview with the city manager panel --

A. Yes.

Q. -- as you've described it?

A. (Nodded head.)

Q. What did you tell the -- the -- I'm sorry. And I've forgotten her name.

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A. Personnel director, Connie Munelle?

Q. Yes. What did you tell the personnel director?

A. I explained to her that I wanted to appraise her of the fact that I would be -- I'd submitted my letter of resignation, I'd been asked to submit a letter of resignation by the mayor, and that -- that it would be made public shortly after the Salem Police interview process, and I wanted to make sure that the manager was aware of that so that it didn't become a surprise during the process.

Q. Did she say that she would pass that on?

A. Yes.

Q. As far as you know, did that take place?

A. Yes. I -- I assume it took place.

Q. So were you asked about that in any of the interviews, the fact that you were about to announce your resignation?

A. No.

Q. When did you learn that you had not been hired as the chief of Salem Police Department?

A. I believe it was Tuesday, November 14th.

Q. How did you find that out?

A. Mr. Wells, the city manager, called me.

20 (Pages 74 to 77)

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Q. What did he say?

A. He congratulated me on my performance and indicated that -- that they had chosen Jerry Moore as the new chief.

Q. Did he give you any information about why you had not been chosen?

A. No.

Q. Have you ever been provided any information from anyone at the City of Salem about why you were not chosen?

A. No.

Q. Have you ever inquired?

A. No.

Q. Has anyone at the City of Salem told you that you did not get chosen because of your resignation from the City of McMinnville?

A. No.

Q. Do you have any information from any source at all that the reason you did not get the position with the City of Salem was because you resigned from your position with City of McMinnville?

A. No.

Q. After you were interviewed by the three different panels that you've described, did you

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1 107?

2 A. Yes.

3 Q. Do you remember drafting -- did you draft
4 107?

5 A. Yes.

6 Q. And so you put the original date November
7 16th of 2005?

8 A. Yes.

9 Q. And you originally had, "November 30th
10 will be my final day at work"?

11 A. Yes.

12 Q. Did you present Exhibit 107 to someone at
13 the city?

14 A. Yes.

15 Q. Who was that?

16 A. The mayor.

17 Q. When did you do that?

18 A. On the afternoon of October 25th in a
19 meeting with the council president and Mr. Taylor.

20 Q. Up at the top you say, "Kent Taylor made
21 the corrections noted."

22 Which corrections did Kent Taylor make?

23 A. He changed the date of submission to the
24 11th, the date of the final day of work to the
25 14th, and put in, "Effective December 1, 2000 --

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1 have any conversations with anyone at the City of
2 McMinnville about how the interviews went?

3 A. I'm sure I did. I don't recall any
4 specifically.

5 Q. Do you remember in general what you said
6 about how the interviews went?

7 A. I thought the interviews went well.

8 Q. As of November 2nd, November 3rd,
9 November 4th, were you still working in the police
10 department?

11 A. Yes.

12 Q. What was the last day that you physically
13 worked in the police department?

14 A. Monday, November 14th.

15 Q. How was that day chosen?

16 A. I don't know.

17 Q. Let me show you what I've marked as 107.
18 Let me know when you've had a chance to look at
19 that.

20 A. Okay.

21 Q. And while you're looking at 107, look at
22 108, also. Let me know when you've had a chance to
23 look at that.

24 A. All right.

25 Q. Is that your handwriting up at the top of

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1 '05."

2 Q. In your meeting on the 24th with
3 Mr. Olson, Mayor Gormley, and Kent Taylor, had you
4 proposed that November 30th be your final day at
5 work?

6 A. No.

7 Q. How did you come up with that day when
8 you prepared Exhibit 107?

9 A. They told me.

10 Q. Who told you?

11 A. The mayor.

12 Q. And when did the mayor -- which meeting
13 did the mayor tell you this at, the October --

14 A. Monday.

15 Q. The October 24th meeting?

16 A. Yes.

17 Q. So when you brought this in on the 25th
18 to the second meeting that you've talked about, you
19 had November 30th in there. It was changed to the
20 14th. Was it changed right there with the four of
21 you?

22 A. Yes.

23 Q. Did Mr. Taylor give you a reason as to
24 why he was changing it?

25 A. No.

21 (Pages 78 to 81)

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Q. Did anyone in the room give you a reason
as to why they were changing it?
A. No.
Q. What did you say when they changed it or
Mr. Taylor changed it?
A. Nothing.
Q. Mr. -- you said Mr. Taylor changed at the
end of the month to be effective December of 2005;
is that correct?
A. Yes.
Q. Did Mr. Taylor give you a reason as to
why he was putting that language in Exhibit 107?
A. Not that I recall.
Q. Did either Mr. Olson or Mr. Gormley tell
you why Mr. Taylor was making it December of '05?
A. I don't recall.
Q. And then is Exhibit 108 the final version
of 107 after Mr. Taylor made his -- the changes
you've talked about?
A. Yes.
Q. After -- or where were you when you
signed Exhibit 108?
A. I believe I was in my office.
Q. Okay. Do you remember when you signed
Exhibit 108?

A. No. Doing a background check on Steve
Theason.
Q. I'm sorry?
A. Doing a background check on Steve
Theason. He had applied to be -- to take a
training position at Department of Police
Standard -- Public Safety Standards and Training.
Q. Do you remember what day either
Ms. Lorenzen or Ms. Gardner called you?
A. The -- Monday, the 24th.
Q. So the same day as the meeting?
A. Yes.
Q. What time did you get this phone call?
A. I don't know. It was in the afternoon,
and I recall the phone call was telling me I was
late for the meeting with the mayor and the
manager. That had -- had not been on my calendar,
hadn't been scheduled, so I was surprised.
Q. So as soon as you got the phone call from
either Ms. Gardner or Ms. Lorenzen, what did you
do?
A. I immediately went over to Mr. Taylor's
office to meet with the -- the mayor and the
manager.
Q. Did either -- and I understand you can't

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A. Minutes after I was given the changes to
be made.
Q. So minutes after the October 25th meeting
with Mr. Olson, Mr. Gormley, and Mr. Taylor?
A. Yes.
Q. After you signed the original of Exhibit
108, what did you do with it?
A. I gave it to Mr. Taylor.
Q. When did you give it to Mr. Taylor?
A. The afternoon of October 25th.
Q. Did you give it to anybody else?
A. No.
Q. How did you find out that Mr. Olson,
Mayor Gormley, and Kent Taylor wanted to meet with
you on October 24th?
A. I believe I got a phone call either from
Rose Lorenzen or the police department executive
assistant, Linda Gardner.
Q. Where were you when you got the phone
call?
A. In a meeting at my office.
Q. Who were you meeting with?
A. A background investigator.
Q. Doing a check on one of your potential
candidates?

remember which one called you, but did either of
them, other than to tell you you were late for this
meeting, did they tell you what the meeting was
about?
A. No.
Q. Did you have any understanding when you
went over there what the meeting was about?
A. No.
Q. And was the meeting held in Mr. Taylor's
office?
A. Yes.
Q. I understand Mr. Olson was there?
A. Yes.
Q. Kent Taylor was there?
A. Yes.
Q. And Mayor Gormley was there?
A. Yes.
Q. Was anyone else there?
A. No.
And before we get -- can I take a break?
Q. Yes.
(Recess was taken: 11:12 - 11:17.)
BY MS. O'KASEY: (Continuing)
Q. Before this meeting of October 24th,

22 (Pages 82 to 85)

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Department --

Q. Which --

MR. KAY: Were you done?

THE WITNESS: No.

BY MS. O'KASEY: (Continuing)

Q. Sorry.

MR. KAY: Please. That's about the third or fourth time. I've let it go, but please take some time, Counsel.

THE WITNESS: -- and allow me to compete for the Salem Police Department position. I told them that that position was not going to be awarded until the end of December, and they hope to have a chief on board in January. So that although the testing was the following week, that process was going to continue for as long as another couple of months, and I was concerned, deeply concerned, that any change in my status at McMinnville within the period of time that they announced the chief would virtually eliminate my ability to effectively compete there.

BY MS. O'KASEY: (Continuing)

Q. You said that you offered various

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A. The mayor.

Q. What was his response?

A. "No."

Q. Okay. Did you --

A. Something like, "No. It's not going to work".

Q. Did you then make another proposal after the mayor said, "No"?

A. Yes.

Q. What was that proposal?

A. I said, "Well, then you -- can you at least give me a couple of months to allow me to complete the Salem Police process?" And I explained that they had -- the process would bring a new chief to -- to Salem about the first of the year.

Q. Did the mayor respond to that?

A. He said, "No."

Q. Did Mr. Taylor respond to that?

A. I don't recall him responding. The mayor ultimately at some point agreed that, "Well, if" -- and he said something to the effect, "Well, if you give me a -- your resignation today, we can postdate it so that you can get through next week's interviews."

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different scenarios to them. Tell me what scenarios you offered to them.

A. I explained that had I ever envisioned myself in a situation like that, that I -- I be given six months or so to gracefully find someplace else to go, and referenced that's what I suspected happened to my predecessor and just assumed during my career that the same type of offer would be extended to me.

Q. So did you suggest or ask for six months of severance?

A. No. I asked them to allow me to continue working for six or so months so that I could -- and I specifically indicated that, that it -- even if the Salem position wasn't successful, it still would allow me to compete for another chief's position. And that's important, because an unemployed chief is a lot harder -- it's a lot harder for a -- an unemployed person to get a job at that level than an employed chief of police.

Q. After you said, "I would like to stay employed for six months or so," I assume that was the first request you made?

A. Yes.

Q. Who responded?

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Q. Was any agreement reached in that -- at that time about amount of severance?

A. No.

Q. Did --

A. The severance issue was beginning to be discussed. I brought it up. I explained that if I'm going to find myself unemployed in a matter of days, that since I had -- was clearly not going to negotiate a longer period of time working, I explained that -- that I was hopeful that they would be able to provide some sort of severance package.

Q. Did you in that meeting of October 24th, 2005, reach an agreement as to when you would actually leave the police department?

A. No.

Q. So if I understand you correctly, Mayor Gormley said, "If you give me your resignation today, we can back -- we can date it forward in order to preserve your potential competitiveness with the City of Salem"?

A. Well, that's not what he said. He said we could date it forward, but it would not have had any impact on my competitiveness with the City of Salem.

33 (Pages 126 to 129)

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1 STATE OF OREGON)
) ss.

2 COUNTY OF MULTNOMAH)

4 I, Amy A. Dalton, Court Reporter and

5 Notary Public, do hereby certify that RICHARD WAYNE
6 MCFARLIN personally appeared before me at the time

7 and place mentioned in the caption herein; that the
8 witness was by me first duly sworn under oath and
9 examined upon oral interrogatories propounded by
10 counsel; that said examination, together with the
11 testimony of said witness, was taken down by me in
12 stenotype and thereafter reduced to typewriting;
13 and, that the foregoing transcript, pages 1 to 219,
14 both inclusive, constitutes a full, true, and
15 accurate record of said examination of and
16 testimony by said witness, and of all other oral
17 proceedings had during the taking of said
18 deposition, and of the whole thereof.

19 Witness my hand and notarial stamp at
20 Portland, Oregon, this 2nd day of June, 2006.

21

Amy A. Dalton

23 My commission expires 5-27-08

14 I certify this original/duplicate original is
valid only if it bears my stamp.

25 Amy Dalton

A. No.

Q. Did Mr. Taylor raise his voice to you during that meeting?

A. No.

Q. Did Mayor Gormley raise his voice to you during that meeting?

A. No.

MS. O'KASEY: Those are all the questions
ave.

Thank you.

MR. KAY: Thank you. If ordered, the witness will read and sign and make revisions to his videotape testimony by supplement or correction as necessary.

Thank you.

(Deposition concluded at 4:11 p.m.)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON

3 WAYNE McFARLIN,)

4 Plaintiff,)

5 vs.)

No. 3:06-CV-1594-HU

6 EDWARD GORMLEY, an individual;)

CITY OF McMINNVILLE, a municipal)

7 corporation; CITY COUNTY INSURANCE)

SERVICES TRUST; ROD BROWN, an)

8 individual; PUBLIC SAFETY)

LIABILITY MANAGEMENT, INC., an)

9 Oregon corporation; WALDO FARNHAM,)

10 Defendants.)

11
12
13 SEALED PORTIONS
14

15 BE IT REMEMBERED That, pursuant to stipulation of
16 counsel for the respective parties, previously set out,

17 THE DEPOSITION OF WAYNE McFARLIN
18 was taken before Christine Spencer, Certified Shorthand
19 Reporter for Oregon, on August 22, 2007, at Mr. Kay's
20 offices in Salem, Oregon, at 9:10 a.m.

21
22
23 CHRISTINE SPENCER

Court Reporter

24 255 Kashmir Court SE

Salem, Oregon 97306

25 503-363-6677

EXHIBIT 1

PAGE 11 OF 13

1 But I also made no, never tried to hide how I left
2 McMinnville, because it was a resignation that was reported
3 in the newspaper.

4 Q. Did that come up in your job interviews and
5 applications?

6 A. Certainly.

7 Q. Let me go back to the question I started out with
8 in which you, I was asking about Waldo Farnham's
9 involvement. Three of your claims that involve Waldo
10 Farnham are conspiracy claims. Do you have an understanding
11 of conspiracy?

12 A. Yes.

13 Q. What is your understanding?

14 MR. KAY: You can answer that to the extent that
15 you do not reveal any attorney-client communications. If
16 you have some separate independent understanding, you can.
17 Otherwise, you're not to do so.

18 THE WITNESS: Well, my knowledge of conspiracy is
19 that you work with others to achieve a purpose.

20 BY MR. SWEET:

21 Q. When you were using the term orchestrated, using
22 and including the mayor and I think Rod Brown in that
23 description, that would meet your definition of conspiracy,
24 would it not, people planning together to do something?

25 A. Yes.

1 Q. And I assume your answers would be the same with
2 regard to this conspiracy, these conspiracy claims, as they
3 were when I asked you early on if you had any additional
4 knowledge since your deposition about Waldo Farnham's
5 involvement in this matter. I think you said the additional
6 knowledge you had was from depositions of others. That
7 would be your same answer?

8 MR. KAY: Asked and answered.

9 BY MR. SWEET:

10 Q. Go ahead.

11 A. I'm not sure I understand what you're asking.

12 Q. I'm talking specifically about these conspiracy
13 claims that you have in the case. I'm asking if you have
14 any knowledge that you've acquired, other than what you've
15 already told me about, related to those claims.

16 A. Well, I haven't told you the depth of the
17 information I've heard in the depositions. And I mean I
18 remember listening to those depositions and recognizing they
19 were substantial evidence to support that.

20 Q. I'm not going to try to get you to regurgitate
21 those depositions because I can read them.

22 A. Right, right.

23 Q. But if I understand you correctly, the source of
24 knowledge that you're talking about came from hearing those
25 people.

1 A. Correct, correct.

2 Q. And then you have a claim of defamation, that you
3 were defamed by Waldo Farnham, among others. And what do
4 you base that claim on?

5 A. That he was telling others that I lied to him and
6 that I was was ineffective as a chief.

7 Q. Those are the two, those are the main?

8 A. The -- yes.

9 MR. KAY: I want to take a break.

10 MR. SWEET: Yeah.

11 (Brief recess)

12 BY MR. SWEET:

13 Q. We just had a little recess and you had a chance
14 to go out with your attorney. Do you have anything to add
15 to any --

16 A. Well, yes. There was a written statement, a
17 written note or letter to Mayor Gormley that made a number
18 of false allegations.

19 Q. This is this two-page document that was referred
20 to in deposition testimony?

21 A. Yes.

22 Q. Have you had any conversations with Waldo Farnham
23 since your deposition was taken?

24 A. No.

25 Q. Did you get a chance to tell about all the

1 conversations you had had with Waldo Farnham regarding your
2 job performance? Were you asked that in your deposition? I
3 can't remember that. I apologize. I don't remember that.

4 A. Can you restate that one more time?

5 Q. Yeah. Do you recall whether you were asked about
6 your conversations with Waldo Farnham related to your job
7 performance? Were you asked that?

8 A. I can't recall.

9 Q. Do you recall conversations you had with Waldo
10 Farnham about job performance?

11 A. No. He never talked to me about -- .

12 Q. All right. Do you know Alan Springer and Don New?

13 A. Yes.

14 Q. And I had a chance to see a public access taped
15 interview by -- I think it was conducted by Don New. You
16 know what I'm talking about?

17 A. Yes.

18 Q. Have you had a chance to see that?

19 A. Yes.

20 Q. And just in general, were there any statements you
21 made on that that you would want to change or that you
22 disagree with?

23 A. Not that I recall.

24 Q. You think it was accurate?

25 A. I haven't listened to it for probably a year and a

1 Springer, ever told you that the mayor said you had
2 assaulted Carol Benedict?

3 A. No.

4 Q. All right. And the sixth statement was that you
5 had lunged at Ms. Benedict at a meeting in a fit of rage.
6 Was this also something that Mr. Springer told you about at
7 the same time he told you about these other statements?

8 A. Yes.

9 Q. And did Mr. Springer also state that this was
10 something Mayor Gormley stated in this one-time meeting
11 that he had with Mr. Springer?

12 A. Yes.

13 Q. Did anyone else at the city ever tell you that
14 they had heard Mayor Gormley state that you had lunged at
15 Ms. Benedict at a meeting in a fit of rage?

16 A. I don't believe so.

17 Q. Did you ever talk to Mayor Gormley about any of
18 the statements Mr. Springer claimed he had made?

19 A. No.

20 Q. Other than verbal statements that you've talked to
21 me about, is there anything that Mayor Gormley wrote that
22 you're aware of that you're claiming was defamatory?

23 A. Perhaps. I'm referring to some notes that were
24 part of discovery.

25 And I don't know the legal, I mean the impact

1 those have, but there were some notes that he made that
2 talked about those type of things, lying when I cough or
3 defamatory allegations. But I don't know who he shared the
4 notes with, so I don't know.

5 Q. Where did you see the notes that you're talking
6 about?

7 A. During this discovery. They were part of the
8 notes that, of Mayor Gormley's.

9 Q. Did you see them during the depositions?

10 A. Whenever we received the discovery documents.

11 Q. Before you filed this lawsuit and went through
12 this process that you're referring to as discovery, did you
13 have any information that Mayor Gormley had written anything
14 about you that you felt was defamatory?

15 A. No.

16 Q. Do you have any information that these notes
17 you've referred to in general were given to anyone?

18 A. No, I don't know.

19 Q. What was Ms. Benedict's position at the city at
20 the time you were there?

21 A. She was the director of finance.

22 Q. Did you have meetings with her from time to time?

23 A. Yes, I did.

24 Q. What would those meetings be about?

25 A. We met to discuss issues of financial aid at the

1 police department. Communicating in the liaison between the
2 police department issues and the finance department, and
3 some personnel issues.

4 My wife and I also socially met with them, her and
5 her husband Andy occasionally. Not frequently, but at least
6 once, maybe twice.

7 Q. During the meetings that you had with Ms.
8 Benedict, did you ever raise your voice at her?

9 A. No.

10 Q. Were you ever aware that Ms. Benedict had
11 complained about your behavior in a meeting that the two of
12 you had had?

13 A. No.

14 Q. As the chief of police during the five years that
15 you were at the City of McMinnville, how many due process
16 hearings do you think you were involved in?

17 A. A couple, maybe three.

18 Q. And as the chief of police of the City of
19 McMinnville, I assume that you were familiar with the terms
20 of the collective bargaining agreement that the officers are
21 subject to?

22 A. Yes.

23 Q. And that collective bargaining agreement included
24 due process requirements before an officer could be
25 discharged?

1 A. Yes.

2 Q. I also assume that as the chief of police of the
3 City of McMinnville, you're familiar with the state statutes
4 that provide for due process for officers in the absence of
5 a collective bargaining agreement?

6 A. Yes.

7 Q. Between the meeting, the first meeting that you
8 had with Mayor Gormley, Mr. Olson and Mr. Taylor, and the
9 day that you signed the resignation agreement, did you ask
10 anyone at the city for a due process hearing yourself?

11 A. No. I didn't know that there was allegations
12 against me.

13 MS. O'KASEY: That's all I have. Thank you.

14 MR. KAY: Thank you.

15 (Discussion off the record.)

16 Deposition recessed at 11:50 a.m.)

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF YAMHILL

3 WAYNE McFARLIN,)

4 Plaintiff,)

5 vs.)

No. CV060094

6 EDWARD GORMLEY an individual,)

7 CITY OF McMinnville, a)

8 Municipal corporation,)

9 Defendants.)

10 DEPOSITION OF EDWARD GORMLEY

11
12 BE IT REMEMBERED that the deposition
13 of EDWARD GORMLEY was taken pursuant to stipulation
14 hereinafter set out before Sally Parrish, Court
15 Reporter and Notary Public for the state of Oregon,
16 May 24, 2006, beginning at the hour of 9:15 A.M.,
17 at the McMinnville Fire Department, 175 NW First
18 Street, McMinnville, Oregon.

19
20 APPEARANCES

21 Mr. Terrence Kay, Attorney at Law,
representing the Plaintiff;

22 Ms. Karen O'Kasey Attorney at Law,
representing the Defendants.

23 ALSO PRESENT: Mr. Kirk Kindle, Capitol
City Video, Mr. Wayne McFarlin, and
24 Ms. Candace Haines, City Attorney,
City of McMinnville.
25

Sally Parrish, Court Reporter
(503) 363-5766

ORIGINAL

EXHIBIT

PAGE

2
OF 2

20

1 Q. The first meeting in October -- strike
 2 that.
 3 Monday October 24th, 2005.
 4 A. That -- that -- that Monday was October
 5 24th, not October 23rd? I -- I don't remember
 6 that, I -- I'm sorry. The answer to your question
 7 is Chief McFarlin, City Manager Taylor, Council
 8 President Olson and myself.
 9 Q. Who called that meeting?
 10 A. Either Rose Lorenzen or Kent Taylor.
 11 Q. Where did you graduate from high school?
 12 A. Jesuit High School, Portland, Oregon.
 13 Q. Not -- Jesuit?
 14 A. Yes.
 15 Q. Not to suggest this but to ask as many
 16 attorneys do, and please understand, have you ever
 17 been convicted of a crime?
 18 A. No, I have not.
 19 Q. Charged with a crime?
 20 A. No, I have not.
 21 Q. Have you ever been personally sued, apart
 22 from this lawsuit?
 23 A. No, I have not.
 24 Q. Do you have a personal attorney at the
 25 present time with regard to this lawsuit?

21

1 A. No, I do not.
 2 Q. Do you have any insurance which may
 3 provide coverage for some or all of the claims or
 4 damages alleged in this case against you?
 5 A. No, I do not.
 6 Q. Do you have an umbrella insurance policy?
 7 A. Yes, I do.
 8 Q. Do you have a homeowner's policy?
 9 A. Yes, I do.
 10 Q. In the meeting of the four of you in
 11 October you've previously mentioned, Mr. Olson,
 12 Mr. Taylor, yourself and Chief McFarlin, did you
 13 make any demands on Chief McFarlin in that meeting?
 14 A. No, I did not.
 15 Q. Did you make any requests of
 16 Chief McFarlin in that meeting?
 17 A. No, I did not.
 18 Q. Did anyone in that meeting make any
 19 demands or requests upon Chief McFarlin?
 20 A. No, they did not.
 21 Q. Did you suggest to Chief McFarlin he take
 22 a Coke break during that meeting at any time?
 23 A. No, I did not.
 24 Q. What was the purpose of that meeting?
 25 A. To discuss the situation within Wayne's

22

1 Department, the, uhm, community, the pending no
 2 vote of confidence, the, uh, potential for, uhm,
 3 the newspaper to, uh, run a large feature
 4 concerning all the people that had left the Police
 5 Department, and to basically meet with Wayne and
 6 discuss what kind of impacts those things would
 7 have upon his candidacy for his position in Salem
 8 had those things taken place.
 9 Q. And, excuse me, you may have mentioned
 10 this already, you say who called the meeting of the
 11 four of you?
 12 A. I do not know, I have told you it was
 13 either Rose Lorenzen or Kent Taylor.
 14 Q. How did you learn of the meeting?
 15 A. I received a phone call from Rose
 16 Lorenzen.
 17 Q. When?
 18 A. I -- I don't remember when.
 19 Q. Same day of the meeting?
 20 A. I don't know.
 21 Q. Had you been involved in any way
 22 arranging anything to do with this meeting
 23 occurring?
 24 A. Yes.
 25 Q. What?

23

1 A. I had been contacted by the president of
 2 the union and had been contacted by the editor of
 3 the newspaper, and, uh, had relayed all this
 4 information to the City Manager.
 5 Q. Is that it? Does that comprise
 6 everything you had to do or were involved with in
 7 this meeting occurring with the four of you?
 8 A. (Pause) I'm, uhm, trying to answer your
 9 question as I think you have stated it, and you
 10 have asked me about arranging that meeting, and I
 11 believe I've answered it to that end.
 12 Q. Have you explained everything which you
 13 did regarding the preparation for this meeting
 14 which occurred with the four of you?
 15 A. That -- that is a question?
 16 Q. Yes, it is.
 17 A. Uhm, I had contact with the City
 18 Councilors prior to this meeting to discuss the
 19 same situation, that, uhm, there was unrest with
 20 the personnel, a pending vote of no confidence, and
 21 that the newspaper was basically threat--
 22 threatening to, uhm, run a story based upon a phone
 23 call they had received from a Mrs. Mike Full who
 24 had gotten frustrated with his efforts to -- to
 25 deal with morale issues in the Police Department.

24

1 Q. Was Mr. Full employed at the Police
 2 Department at the time you learned of that?
 3 A. No, he was not.
 4 Q. When was Mr. Full last employed by -- by
 5 the Police Department?
 6 A. I don't know the specific date.
 7 Q. In the meeting with Chief McFarlin with
 8 the four of you, did you fully and honestly
 9 disclose all the information you've just testified
 10 to to Chief McFarlin?
 11 A. Yes, I did.
 12 Q. To be quite clear, Mr. Gormley,
 13 everything you've now testified that you were
 14 involved in doing to help arrange for the meeting
 15 or providing information for the meeting --
 16 A. I -- I did not arrange --
 17 Q. Let me finish --
 18 A. -- that meet-
 19 Q. -- let me finish the question, please.
 20 Did you describe -- and I'll just rephrase it.
 21 Did you describe to Chief McFarlin
 22 openly and completely and honestly everything
 23 relating to this meeting and the subjects of this
 24 meeting when you then met with Chief McFarlin?
 25 A. I don't believe I detailed every

25

1 conversation I had with every councilor or, uhm,
 2 Sergeant Soules or Mr. Bladine, the owner of the
 3 paper, uh, I did not give him all the details that
 4 had, uhm, been discussed with me other than to try
 5 and provide a capsulized form of what -- you know,
 6 a -- a summary of those things.
 7 Q. Why not?
 8 A. He didn't ask me for the information.
 9 Q. Did Chief McFarlin ever ask you why the
 10 meeting was being held when the four of you were
 11 meeting?
 12 A. No, he did not.
 13 Q. Did Chief McFarlin ask those of you in
 14 attendance at that meeting, "Is there anything else
 15 about what you're asking me that you haven't told
 16 me?"
 17 A. I don't believe he did.
 18 Q. Did Chief McFarlin even ask any questions
 19 in the meeting with the four of you?
 20 A. I don't -- I believe he did, but I cannot
 21 give those to you specifically.
 22 Q. Did you fully, openly and honestly answer
 23 all questions which Chief McFarlin raised in that
 24 meeting with the four of you?
 25 MS. O'KASEY: I object to the form of

26

1 the question.
 2 You can answer.
 3 MR. KAY: Let me address the
 4 question, Counsel, what's the concern, to try and
 5 remedy it?
 6 MS. O'KASEY: First of all, the only
 7 proper speaking objection in a deposition is object
 8 to form, which I've done.
 9 He just testified that he doesn't
 10 remember what questions, if any, Mr. McFarlin
 11 asked, so your question about his response is based
 12 on facts that are -- that have not been
 13 established, --
 14 MR. KAY: I --
 15 MS. O'KASEY: -- to be specific.
 16 MR. KAY: I appreciate that
 17 enhancement, and I think he can answer this.
 18 MS. O'KASEY: Well, I'm going to --
 19 MR. KAY: He --
 20 MS. O'KASEY: -- I'm going to allow
 21 him to answer the question, --
 22 MR. KAY: No, I appreciate that, I'm
 23 not --
 24 MS. O'KASEY: -- I'm simply objecting
 25 to the form, Counsel.

27

1 MR. KAY: And I was asking just to
 2 try and to clarify that so we have a clear record,
 3 and I appreciate you explaining. Let me rephrase
 4 it and we'll come back to it.
 5 Q. (By Mr. Kay) Mr. Gormley, you realize
 6 as the mayor and also in your role not as the
 7 mayor, say, doing business, do you -- do you
 8 conduct yourself honestly with people?
 9 A. Yes, I do.
 10 Q. Meaning you tell the truth to people?
 11 A. Absolutely.
 12 Q. If you're asked you answer fully, you
 13 don't withhold information when people are asking
 14 you?
 15 A. (Pause) I answer everyone truthfully.
 16 Q. You hesitated, is there something about
 17 answering truthfully that you're still kind of
 18 leaving some room open to mean you withhold some
 19 things?
 20 A. Your question was not whether I asked
 21 (sic) things, uh, truthfully but whether I fully
 22 disclosed, maybe I misunderstood what you had said.
 23 Q. Well, do you think part of being truthful
 24 is fully answering someone when they put a question
 25 to you?

28

1 A. Yes.

2 Q. Okay. So did you, consistent with what

3 you've just said, answer fully, truthfully any

4 questions Chief McFarlin put to you or anyone else

5 in that meeting?

6 MS. O'KASEY: Same objection.

7 You can answer.

8 THE WITNESS: If Chief McFarlin asked

9 me a question I would have answered it truthfully.

10 Q. (By Mr. Kay) Okay. You may not

11 remember the questions, as you've testified, that

12 occurred in that meeting but you do know you

13 answered truthfully questions that were raised,

14 because that is your way to conduct yourself,

15 correct?

16 A. I don't remember any questions being

17 answered -- asked at that meeting.

18 Q. I heard you say that, but you've

19 testified that you would answer questions

20 truthfully if put to you, so is it true that you

21 answered the questions that were put to you in that

22 meeting even though you don't remember the

23 questions, because that's the way you conduct

24 yourself?

25 MS. O'KASEY: Object to the form of

29

1 the question.

2 MR. KAY: Go ahead.

3 MS. O'KASEY: You can answer.

4 THE WITNESS: I do not remember any

5 questions. If I had a question I would have

6 answered it truthfully.

7 Q. (By Mr. Kay) Right. And today you have

8 no memory of any question not being answered

9 truthfully?

10 A. Yes.

11 Q. Okay. And do you have any memory of

12 withholding any information in responding to a

13 question by Chief McFarlin?

14 A. I don't remember any questions being

15 asked.

16 Q. But do you have any memory of withholding

17 any information in response to any questions of

18 his?

19 A. I do not.

20 Q. Do you have any memory of anyone else in

21 that meeting withholding any information in

22 response to any questions Chief McFarlin asked?

23 A. I do not.

24 Q. Would you have expected that Mr. Taylor,

25 Mr. Olson and yourself in that meeting with

30

1 Chief McFarlin had an obligation as officials of

2 this city to answer questions truthfully if put to

3 you by the Chief?

4 A. Yes, we would have.

5 Q. And to not withhold information?

6 A. Yes.

7 Q. Chief McFarlin at the time, in October

8 2005, was a full-time employee of the City,

9 correct?

10 A. Yes, he was.

11 Q. The Personnel Handbook applies to him as

12 a full-time employee, correct?

13 A. To the best of my recollection, yes.

14 Q. Okay. Chief McFarlin was hired by the

15 City Council in a vote by the body called the City

16 Council, correct?

17 A. I believe so.

18 Q. Under the Charter of this City the Chief

19 is hired and fired by the City Council, correct?

20 A. Yes.

21 Q. The terms and conditions of employment

22 are determined by the City Council, correct?

23 A. Through consultation with the City

24 Manager.

25 Q. After the consultation, if any, it's not

31

1 required, but if any, the City Council determines

2 the terms and conditions of employment of the Chief

3 of Police, correct?

4 A. Yes.

5 Q. Now, did you have any objectives or

6 purposes in mind when you participated in the

7 meeting with Chief McFarlin with the other two

8 gentlemen, Mr. Taylor and Mr. Olson?

9 A. Yes, I did.

10 Q. What were those purposes or objectives?

11 A. I was very concerned about Wayne and his

12 candidacy in Salem, uhm, we were all very proud

13 that he had been made -- made a finalist, thought

14 it was a wonderful career opportunity for him, and

15 the events that were taking place, uhm, outside of

16 Wayne's, uhm, uh, I guess focus I thought could be

17 really damaging to his application, and so my

18 involvement in that meeting was to be there and say

19 "We have a" -- "a problem." And I explained to him

20 what I had, uh, received in the way of information

21 from people and was concerned, what happens if the

22 newspaper runs this big article, uh, someone like

23 Katie Wilson, who had already tried to, uh,

24 intimidate the Police Department over a, uhm, -- a

25 mole issue, and if the, uh, paper ran public that

<p style="text-align: right;">32</p> <p>1 <u>the potential vote of no confidence, what would</u> 2 <u>that do to his chances as, uhm, a candidate, a</u> 3 <u>finalist at the City of Salem.</u> 4 Q. Any other purposes or objectives that you 5 had in mind before or during that meeting with 6 Chief McFarlin? 7 A. My sole purpose was -- was to deal with 8 his -- his welfare and that candidacy and not to 9 jeopardize that. And it was to give him that 10 information. 11 Q. Again, your sole purpose was his welfare 12 and his -- 13 A. His candidacy. 14 Q. -- candidacy as a finalist for the Chief 15 of Police -- 16 A. Correct. 17 Q. -- in Salem? 18 A. Yes. 19 Q. And you explained to him all the 20 information you testified about that were subjects 21 for this meeting? 22 A. I explained to him what I have previously 23 testified about, yes. 24 Q. Specifically, did you explain to him that 25 the newspaper was threatening to run an article,</p>	<p style="text-align: right;">34</p> <p>1 Q. Did you mention Mr. Bladine, the editor, 2 I think you said "owner," of the News Register was 3 threatening to run an article? 4 A. I don't believe I said Mr. Bladine was, 5 uhm, but I said -- I'm sure I said the newspaper 6 was. 7 Q. Did you explain to Mr. -- strike that. 8 Did you explain to the Chief that your 9 sole purpose was his welfare and his candidacy as a 10 finalist for the Chief of Police of Salem in 11 participating in this meeting? 12 A. I did not use those words. 13 Q. If that was your sole purpose -- 14 (pause) -- well, let me rephrase this. 15 Did you tell him in so many words that 16 was your purpose in having this meeting? 17 A. Yes. 18 MS. O'KASEY: Take a break. Go off 19 the record. 20 THE VIDEOGRAPHER: All right, we are 21 off. 22 (Off the record) 23 24 THE VIDEOGRAPHER: Okay, we are back 25 on the record, track 2 at 10:06.</p>
<p style="text-align: right;">33</p> <p>1 "yes" or "no"? 2 A. Yes. 3 Q. Did you explain to him that Mrs. Full had 4 contacted the newspaper, "yes" or "no"? 5 A. I don't believe I explained that. 6 Q. Why not? 7 A. (Pause) I don't believe I would have any 8 reason to provide that information unless -- unless 9 it was, uhm, questioned of me. 10 Q. Did you decided -- did you intentionally 11 decide not to tell him that information about 12 Mrs. Full? 13 A. I really don't remember the specific 14 conversations, I may have said that Mike Full's 15 wife had been to -- to Jeb Bladine or had talked to 16 Jeb Bladine, I may have said that to Wayne, I 17 really don't remember. 18 Q. Did you explain to him that Katie Wilson 19 had tried to intimidate the Police Department 20 previously and you were concerned about it 21 occurring again, did you tell that to 22 Chief McFarlin, or words to those effect? 23 A. I don't know if I mentioned Katie Wilson, 24 I think I mentioned the -- the newspaper and the 25 editor.</p>	<p style="text-align: right;">35</p> <p>1 Q. (By Mr. Kay) Mr. Gormley, for the 2 meeting we've been discussing on October 24th with 3 yourself, Mr. Olson, Mr. Taylor and Chief McFarlin, 4 you said the sole purpose was the Chief's welfare 5 and his candidacy in Salem, and -- and based on 6 that what did you explain to the Chief was your 7 plan or your suggestion to deal with these concerns 8 for his welfare, what did you tell him? 9 A. I made no suggestions. 10 Q. So your purpose was having the meeting to 11 address these issues for his welfare and his 12 benefit, but you made no suggestions in the meeting 13 whatsoever? 14 A. I did not. 15 Q. Did anyone else make any suggestions in 16 the meeting? 17 A. (Pause) I -- I don't believe so. 18 Q. How long was the meeting? 19 A. To the best of my recollec -- 20 recollection, maybe 30 minutes to 45 minutes. 21 Q. Did Chief McFarlin make any requests to 22 you or anyone else in the meeting? 23 A. My -- my best recollection is that after 24 I had explained to Wayne what was going on and, 25 uhm, what kind of impact it might have on, uhm, his</p>

1 then.
 2 Q. Was it perhaps the week before or --
 3 A. Absolut- --
 4 Q. -- a month before?
 5 A. No, no, it was --
 6 Q. Same week?
 7 A. Correct.
 8 Q. All right. Now, let's step back since
 9 you've mentioned the publisher. Referring to the
 10 publisher of the paper, Mr. Jeb Bladine?
 11 A. Yes, sir.
 12 Q. And he approached you at the Chamber
 13 dinner that Thursday night prior to the October
 14 24th meeting?
 15 A. Yes.
 16 Q. And did he take you aside so you could
 17 talk privately?
 18 A. Yes, he did.
 19 Q. What did he say to you?
 20 A. He wanted to know if I was aware of all
 21 the unrest within the Police Department. And I
 22 asked him to explain himself, and he explained
 23 about the -- the morale issue, about, uh, all the
 24 people that had left, uhm, unwillingly, uhm, was I
 25 aware of tho- -- those things and -- and said that

1 "I'm just now finding out about some of those
 2 things."
 3 And he wanted me to know that Mike
 4 Full's wife had called him that day, and his
 5 concern was if Katie Wilson, this investigative
 6 reporter, got ahold of any of this, uhm, you know,
 7 there would be -- I mean, Wayne would just be
 8 brutalized.
 9 Q. That's what Mr. Bladine said?
 10 A. Yes.
 11 Q. And in response to Mr. Bladine saying
 12 that if his reporter, Katie Wilson, got ahold of
 13 this information Mr. McFarlin, Chief McFarlin,
 14 would be brutalized, what did you say to him?
 15 A. I said I -- I -- I was -- I was concerned
 16 and shocked and, you know, Wayne -- Wayne's,
 17 uhm, -- I think I said to him, "Gosh, Wayne's a
 18 candidate, that's just" -- "you know, what's this
 19 going to do?"
 20 And Mr. Bladine did not want anything
 21 bad to happen to -- to Wayne either, uh, but he has
 22 a young reporter that, uhm, has received a bunch of
 23 awards and that just -- because of her exposes
 24 she's done on things, so if she had any sense that
 25 there was something not right at the Police

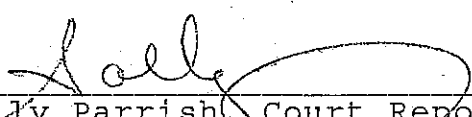
1 Department, uhm, it would become front page
 2 information.
 3 Q. Did Mr. Bladine say anything else to you
 4 at that time?
 5 A. I believe that was it.
 6 Q. Did you say anything else --
 7 A. Best of my recollection.
 8 Q. Sure. Did you say anything else to him?
 9 A. Not that I remember.
 10 Q. Did you say what you were going to do?
 11 A. I told him "I'm" -- "I'm doing the best I
 12 can trying to get information and trying to
 13 validate, you know, the facts and that, and -- and
 14 so far it's" -- uhm, I didn't have a lot of facts
 15 to work with.
 16 Q. Did you tell him you had talked with
 17 Chief McFarlin about it?
 18 A. No, I -- I had not talked to
 19 Chief McFarlin.
 20 Q. Well, hearing this from the owner and
 21 publisher -- that's correct, the owner and
 22 publisher of the paper?
 23 A. Yes.
 24 Q. And -- and let's put that in context.
 25 The News Register has been the -- the paper of this

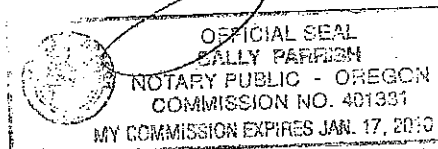
1 city for decades, hasn't it?
 2 A. Yes.
 3 Q. Would you say the newspaper is the
 4 primary source of information about local and city
 5 and other matters here for the -- the general
 6 public?
 7 A. Absolutely.
 8 Q. Okay. It's published how many days a
 9 week?
 10 A. Three days a week.
 11 Q. Three days a week?
 12 A. Monday -- or, excuse me, Tuesday,
 13 Thursday and Saturday.
 14 Q. Okay.
 15 A. Is that three days?
 16 Q. And did you get the impression in talking
 17 with Mr. Bladine that he was asking for something
 18 to be done to help avoid the risk of a newspaper
 19 article being published by his employee and
 20 reporter?
 21 A. Could you ask that one more time, I --
 22 I'm trying to remember that conversation, and...
 23 Q. Did you have any impression when you were
 24 speaking to Mr. Bladine, the publisher and owner of
 25 the paper in this city, that he was suggesting or

1 STATE OF OREGON)
2 County of Marion) ss.
3

4 I, Sally Parrish, Court Reporter and
5 Notary Public for Oregon, certify that EDWARD
6 GORMLEY personally appeared before me at the time
7 and place set forth in the caption hereof; that at
8 said time and place I reported in stenotype all
9 testimony adduced and other oral proceedings had in
10 the foregoing matter; that thereafter my notes were
11 reduced to typewriting by me, and the foregoing
12 reporter's transcript, consisting of 327
13 consecutive pages, constitutes a full, true and
14 accurate record of such testimony adduced and oral
15 proceedings had and of the whole thereof.

16 Witness my hand and Notary Public seal
17 at Salem, Oregon, this 20th day of August, 2006.
18

19
20 
21 Sally Parrish, Court Reporter
22 Notary Public for Oregon
23 My Commission Expires 1/17/10
24



Sally Parrish, Court Reporter
(503) 363-5766

EXHIBIT

PAGE

2
2 OF 2

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF YAMHILL

3 WAYNE McFARLIN,)

4 Plaintiff,)
5)

6 vs.)

) No. CV060094
7)

8 EDWARD GORMLEY, an individual,)

9 CITY OF McMinnville, a)

10 Municipal corporation,)

11) Defendants.)
12

13 DEPOSITION OF KENT TAYLOR

14 BE IT REMEMBERED that the deposition
15 of KENT TAYLOR was taken pursuant to stipulation
16 hereinafter set out before Sally Parrish, Court
17 Reporter and Notary Public for the state of Oregon,
18 May 25, 2006, beginning at the hour of 9:20 A.M.,
19 at McMinnville City Hall, 230 NE 2nd Street,
20 McMinnville, Oregon.

21 APPEARANCES

22 Mr. Terrence Kay, Attorney at Law,
 representing the Plaintiff;

23 Ms. Karen O'Kasey Attorney at Law,
 representing the Defendants.

24 ALSO PRESENT: Ms. Candace Haines,
 Attorney for the City of McMinnville,
25 and Mr. Wayne McFarlin.

Sally Parrish, Court Reporter
(503) 363-5766

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EXHIBIT

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1 OF 3

20

1 A. Help me out, yeah.
2 Q. Okay. Maybe there's a printed one handy.
3 MS. HAINES: (Counsel looking through
4 her file.)
5 MR. KAY: One is coming.
6 MS. HAINES: I can't possibly get it
7 out so I'll hand you the whole thing (indicating).
8 MS. O'KASEY: '05.
9 MR. KAY: Perfect.
10 MS. O'KASEY: October.
11 THE WITNESS: And the question is did
12 I have a meeting?
13 Q. (By Mr. Kay) Did you participate in a
14 meeting, attend a meeting with Chief McFarlin
15 regarding his employment on Monday, October 24th?
16 A. I don't know the dates, I can't -- I
17 can't tell you the date.
18 Yes, I -- I participated in a meeting
19 around that time with Chief McFarlin about his
20 employment, but I can't -- I don't remember the
21 exact date.
22 Q. Was it a Monday?
23 A. I can't tell you that either.
24 Q. Is there some way you could reference or
25 figure out when the meeting occurred, do you have a

21

1 calendar that would say when that meeting happened?
2 A. Yeah. Well, I hope it -- it might say
3 that.
4 Q. We're here at City Hall, is your office
5 right down the hall?
6 A. It's upstairs.
7 Q. Could we take a break and have you please
8 get your calendar?
9 A. Sure.
10 Q. Thank you.
11 A. Okay.
12 (Off the record)
13 (Whereupon, Deposition
14 Exhibit Nos. 19 and 20 were
15 marked for identification.)
16
17 THE WITNESS: Now I've got the order
18 right.
19 Q. (By Mr. Kay) I'm sorry?
20 A. Now I've got the order right.
21 Q. May I?
22 A. (Witness hands Counsel a document.)
23 Q. (Counsel reviewing the document.)
24 A. That's the 21st, that's --

22

1 Q. Exhibits 19 and 20 are printouts from
2 your electronic calendar apparently maintained in
3 Outlook, Mr. Taylor?
4 A. Correct.
5 Q. Exhibit 19 being your calendar of the
6 21st, and 20 being your calendar of October 24th?
7 A. Correct.
8 Q. All right. Then looking at your
9 calendar, does it help you remember that Monday,
10 October 24th, you participated in a meeting in the
11 afternoon it says at 1:30?
12 A. Yes.
13 Q. Did that meeting occur here at City Hall?
14 A. Yes.
15 Q. Where?
16 A. In my office.
17 Q. Who was present?
18 A. Wayne McFarlin, Ed Gormley, Rick Olson
19 and myself.
20 Q. Okay. Who called that meeting?
21 A. Uhm, I scheduled it in terms of having
22 Wayne come at 1:30.
23 Q. Who decided to have the meeting?
24 A. I'd describe it a collective decision
25 with the Mayor and -- and Councilman Olson and

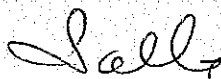
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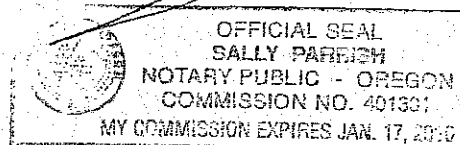
1 myself.
2 Q. The three of you decided to have that
3 meeting?
4 A. (Nodding head.)
5 Q. When did you decide to have that meeting?
6 A. Following the meeting -- or meeting on
7 the 21st.
8 Q. So on Friday, the 21st of October, the
9 three of you discussed Chief McFarlin and decided
10 to have a meeting with him on Monday, correct?
11 A. Yes.
12 Q. And what was the purpose of the meeting,
13 or the purposes for the meeting?
14 A. The meeting on the 24th?
15 Q. Yes.
16 A. To discuss his performance and concerns
17 that had arisen.
18 Q. Were there any other purposes?
19 A. No.
20 Q. Okay. So for the meeting on the 24th to
21 discuss issues that had arisen in his performance,
22 those being the two subjects of the meeting, is
23 that correct?
24 A. Yes.
25 Q. Thank you.

1 STATE OF OREGON)
2 County of Marion) ss.
3

4 I, Sally Parrish, Court Reporter and
5 Notary Public for Oregon, certify that KENT TAYLOR
6 personally appeared before me at the time and place
7 set forth in the caption hereof; that at said time
8 and place I reported in stenotype all testimony
9 adduced and other oral proceedings had in the
10 foregoing matter; that thereafter my notes were
11 reduced to typewriting by me, and the foregoing
12 reporter's transcript, consisting of 72 consecutive
13 pages, constitutes a partial, true and accurate
14 record of such testimony adduced and oral
15 proceedings had and of the whole thereof.

16 Witness my hand and Notary Public seal
17 at Salem, Oregon, this 18th day of August, 2006.
18

19 
20 Sally Parrish, Court Reporter
21 Notary Public for Oregon
22 My Commission Expires 1/17/10



Sally Parrish, Court Reporter
(503) 363-5766

EXHIBIT

PAGE

3 OF 3

RESIGNATION AND SEPARATION AGREEMENT AND RELEASE OF CLAIMS

This Agreement is by and between the City of McMinnville, a municipal corporation of the State of Oregon (hereinafter City) acting by and through its City Manager and Wayne McFarlin, an employee of the City (hereinafter Employee).

RECITALS

Employee submitted a written resignation to City. The resignation is dated November 11, 2005 and states that Employee's resignation will be effective November 30, 2005. The resignation establishes that Employee's last working day will be November 14, 2005.

TERMS OF AGREEMENT

For the mutual consideration set forth below, the parties agree as follows:

Section 1. Employee will continue working through November 14, 2005, absent other direction from the City Manager. Employee will be placed on leave with pay and with full benefits from his final working day through November 30, 2005. This Agreement will serve as the approval of the City Manager for such leave. Employee shall not be required to use any accrued leave (e.g. vacation) during this period.

Section 2. On November 30, 2005, City will pay Employee, as severance, a lump sum equal to three times Employee's regular monthly base salary (as of the October 2005 pay period) plus an amount equal to three times the monthly amount City pays toward Employee's health insurance premium (as of the October 2005 premium payment period). Taxes and other appropriate deductions will be deducted from the total amount before City issues the check.

Section 3. Upon fulfillment of the terms set forth in Section 2, Employee agrees that no further compensation of any kind shall be due from City.

Section 4. Employee hereby releases City, its officers, agents, employees, representatives, and insurers from any and all claims known or unknown arising out of Employee's employment with City and the termination of that employment relationship through Employee's resignation. This release includes, but is not limited to, all claims for additional salary or other forms of compensation, for pain and suffering damages, punitive damages, and all other applicable statutory, contract, tort, or other theories based on common law or upon any statute dealing with employment matters and discrimination in employment. These statutes included, but are not limited to, ORS Chapters 652, 653, 654, and 659, Title VII of the Civil Rights Act of 1964, the Post Civil War Civil Rights Acts, the Rehabilitation Act of 1973, the Americans Disabilities Act, the Federal Family Medical Leave Act, and the Oregon Family Leave Act, all as amended.

RESIGNATION AND SEPARATION AGREEMENT AND RELEASE OF CLAIMS

Page 1

EXHIBIT

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1 OF 3

The release contained in this paragraph is intended to operate in all judicial, non-judicial, and administrative forums for all matters related to Employee's employment with City and shall act to bar all remedies for actions related to such employment, including but not limited to claims for money damages, injunctive relief or re-employment rights.

Employee agrees not to lodge, file or bring any suit, charge, complaint, or any other form of action or claim against City or its officers, agents, or employees relating in any way to Employee's employment relationship with City. Employee agrees not to request, or to indirectly cause, any governmental agency or other person to commence any investigation or bring any action against City, its officers, agents, or employees, and Employee waives any remedy or recovery in any action which may be brought on Employee's behalf by any government agency or other person.

The release contained in this section is intended by the parties to be a full and complete release of all possible claims, and is to be construed by a court accordingly.

Section 5. With the single exception detailed below, City agrees not to lodge, file or bring any civil suit, charge, complaint, or any other form of civil action or civil claim against Employee relating in any way to Employee's employment relationship with City. City agrees not to request, or to indirectly cause, any governmental agency or other person to commence any civil investigation or bring any civil action against Employee. City waives any remedy or recovery in any civil action which may be brought on City's behalf by any government agency or other person. Exception: Any and all tax liability for money paid remains with Employee, and City, if charged for such, may seek indemnity.

Section 6. If a prospective employer contacts City regarding the potential future employment of Employee, City shall limit its response to a confirmation of the period of employment and final monthly salary unless the prospective employer's request for information is submitted to City with a release of information form signed by Employee. If a release of information form signed by Employee is submitted to City, City shall comply with the terms of the release of information form.

Section 7. Employee represents and acknowledges that in executing this Agreement, Employee does not rely and has not relied upon any representation or statement not set forth herein made by City, its officers, agents, or employees with regard to the subject matter, basis or effect of this Agreement.

Section 8. In the event that any party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement, each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any non-judicial action.

Section 9. After having carefully read each provision of this Agreement, Employee and City have chosen to execute the Agreement. Employee and City know and understand the contents of the Agreement and have signed the Agreement as their own free act.

Section 10. This document contains the entire agreement between the parties relating to Employee's separation from employment from City and may be amended only by execution of a written document by City and Employee.

Section 11. EMPLOYEE REPRESENTS AND AGREES THAT EMPLOYEE FULLY UNDERSTANDS EMPLOYEE'S RIGHT TO DISCUSS ALL ASPECTS OF THIS AGREEMENT WITH WHOMEVER EMPLOYEE DESIRES, THAT EMPLOYEE HAS EITHER DISCUSSED THIS AGREEMENT WITH WHOMEVER EMPLOYEE DESIRES OR CHOSEN NOT TO DISCUSS THIS AGREEMENT, THAT EMPLOYEE HAS CAREFULLY READ AND FULLY UNDERSTANDS ALL OF THE PROVISIONS OF THIS AGREEMENT, AND THAT EMPLOYEE IS VOLUNTARILY ENTERING INTO THIS AGREEMENT.

**PLEASE READ CAREFULLY. THIS SEPARATION AGREEMENT
INCLUDES A RELEASE OF ALL KNOWN OR UNKNOWN CLAIMS.**


Kent L. Taylor
City Manager


R. Wayne McFarlin
Employee

Date 10-28-05

Date 10/28/05

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF YAMHILL
3

4 WAYNE McFARLIN,)

5 Plaintiff,)

6 vs.)

No. CV060094

7 EDWARD GORMLEY, an individual,)

8 CITY OF McMinnville, a)

Municipal corporation,)

9 Defendants.)

10 DEPOSITION OF WALDO FARNHAM
11

12 BE IT REMEMBERED that the deposition
13 of WALDO FARNHAM was taken pursuant to stipulation
14 hereinafter set out before Sally Parrish, Court
15 Reporter and Notary Public for the state of Oregon,
16 June 2, 2006, beginning at the hour of 11:25 A.M.,
17 at McMinnville City Hall, 230 NE 2nd Street,
18 McMinnville, Oregon.
19

20 APPEARANCES

21 Mr. Terrence Kay, Attorney at Law,
representing the Plaintiff;

22 Ms. Karen O'Kasey Attorney at Law,
representing the Defendants;

23 Mr. D. Michael Mills, Attorney at Law,
representing the Deponent, Mr. Waldo Farnham.

24 ALSO PRESENT: Ms. Candace Haines,
Attorney for the City of McMinnville,
25 and Mr. Wayne McFarlin.

*P. 49 - Docs / email
provided?*

1 Q Okay. Now, do you understand that when
2 you're sworn to tell the truth you need to answer
3 the questions fully with what you know and not
4 withhold anything. Again, I'm not suggesting
5 you're going to withhold anything, I just want to
6 make sure you know you need to answer fully and
7 completely, do you understand that?

8 A Yes.

9 Q Okay. Now, if any of the questions I ask
10 are unclear or confusing to you will you tell me
11 that before you answer?

12 A Yes.

13 Q Okay. And the reason I'm asking you to
14 do that, sir, is that this court reporter is going
15 to type up an official court record of your sworn
16 testimony, and if we end up in front of a jury or a
17 judge and I ask you the same kind of question and
18 you answer it differently in court than you do here
19 I just want to make sure we don't have an issue
20 with you saying, "Well, I was confused on the day
21 that my deposition was taken," and so you've told
22 me you're going to explain when you're confused and
23 we'll clear it up, all right?

24 A Yes.

25 Q Therefore, when you answer today may I

1 Oregon driver's license number, please.

2 A 653291.

3 Q And your date of birth?

4 A 11-13-34.

5 Q Again, please understand, Mr. Farnham,

6 this is not a question to suggest this has ever
7 happened, but in being thorough lawyers we ask
8 these kind of questions, and the next one I'm going
9 to ask is like that, have you ever been convicted
10 of a crime?

11 A No.

12 Q Have you ever been charged with a crime?

13 A No.

14 Q Have you ever been a party to a lawsuit,
15 that is, you've sued somebody or they've sued you?

16 A Yes.

17 Q How many times?

18 A I don't know.

19 Q More than five, less than ten?

20 A Less than ten.

21 Q Okay. Were all of those lawsuits
22 involving your electrical contracting business?

23 A Yes.

24 Q Okay. Were any of those involving any
25 personal issues, that is, something that was not

1 conclude that you've not been confused about the
2 question?

3 A Repeat the question, please.

4 Q Since you've agreed to tell us whenever
5 you're confused may we conclude when you answer you
6 haven't had any confusion in your mind that you've
7 been not telling us about?

8 A Yes.

9 Q Thank you very much.

10 Now, not to suggest there's any
11 problem with your memory, this is something we do
12 with witnesses, lawyers do it all the time, are you
13 under any medication or condition or fact that may
14 impair the quality of your memory?

15 A No.

16 Q Okay. Do you have any questions before
17 we begin?

18 A No.

19 Q Okay. Let's do some background things
20 first, if we could, please. Your age, please?

21 A 71.

22 Q Your Social Security number?

23 A (Witness looking in his wallet)

24 542-36-7224.

25 Q And while you have your wallet out, your

1 about electrical contracting matters?

2 A No.

3 Q Okay. Have you had attorneys represent
4 you in those cases?

5 A Yes.

6 Q Okay. The same attorney or different
7 attorneys?

8 A I can't remember.

9 Q Did Mr. Mills represent you in any of
10 those cases?

11 A Yes.

12 Q What's the name of your electrical
13 contracting business?

14 A Farnham Electric Company.

15 Q Corporation, limited liability, or any
16 other entity?

17 A Corporation.

18 Q Formed when?

19 A I don't know.

20 Q Who formed it?

21 A My father.

22 Q You inherited it?

23 A Yes, sir.

24 Q Okay. You're the sole owner?

25 A Yes.

1 Q And you've been the president and sole
2 owner of that company for how long?
3 A (Pause)
4 Q You can estimate.
5 A Uhm, since 1968.
6 Q How many employees does the company have
7 at the present time?
8 A 30.
9 Q Roughly?
10 A Yes.
11 Q Union shop or non?
12 A Union.
13 Q How long?
14 MR. MILLS: How long a union shop?
15 MR. KAY: Yes. Fair.
16 MR. MILLS: Okay.
17 Q (By Mr. Kay) How long have you had a
18 union shop?
19 A I don't know.
20 Q What union local is it?
21 A IBEW Local 280.
22 Q Okay.
23 A IBEW Local 48 in Portland.
24 Q Okay. Do you have a management labor
25 attorney that represents your company?

1 A (Pause) Okay, please say again.
2 Q Have you or do you have a labor attorney
3 for your company?
4 A No.
5 Q Have you ever?
6 A No.
7 Q Are you married?
8 A Yes.
9 Q Your wife's name, please.
10 A Bonnie.
11 Q B-o-n-n-i-e?
12 A Yes.
13 Q How long have you been married?
14 A Humm?
15 Q You can estimate. Off the record --
16 (laughter) -- you can estimate.
17 A Okay, 41 years.
18 MR. KAY: Off the record.
19 (Off the record)
20
21 Q (By Mr. Kay) About 43 years you've been
22 married?
23 A 41.
24 Q 41 years. Children?
25 A Yes.

1 Q How many?
2 A Five.
3 Q Rough approximately their ages, please.
4 A Oldest is 53. The next one is 51. The
5 next one is 45 -- no, 48 maybe, and then probably
6 43, and 39.
7 Q You were married previously?
8 A Yes.
9 Q Okay. Second marriage at the present
10 time?
11 A Yes.
12 Q Do any of your children work in the
13 business?
14 A Yes.
15 Q How many?
16 A One.
17 Q Which one?
18 A The oldest.
19 Q His name or her name?
20 A It's Dennis McGill.
21 Q Dennis McGill (enunciating)?
22 A Yes.
23 Q And what is Dennis McGill's position in
24 your company?
25 A Uhm, Manager.

1 Q What, generally, does your electrical
2 company do, what kind of contracting work do they
3 do?
4 A Commercial industrial.
5 Q Okay. Any residential?
6 A Small amount.
7 Q Okay. 90 percent or more is industrial
8 commercial?
9 A Yes.
10 Q All in the state of Oregon?
11 A No.
12 Q Where else?
13 A We've been -- we've been to Peru.
14 Q Peru?
15 A Uh-huh. Pusong (ph), South Korea,
16 Hawaii, Guam, Arizona, Arkansas, Alabama,
17 Washington.
18 Q Any other states?
19 A No.
20 Q In the last five years would over 80
21 percent of the business be in the state of Oregon,
22 or thereabouts?
23 A Yes.
24 Q Okay. What business has your company or
25 you, yourself, done with the -- excuse me. What

1 A (Pause) I don't know about the four to
2 six weeks, I wasn't -- I -- I don't have the exact
3 dates, but there was a time after that I was -- I
4 was made aware of it.

5 Q Ed Gormley told you at some point "I
6 asked the Chief to resign," correct?

7 A Yes.

8 Q Did he tell you the Chief had agreed to
9 resign?

10 A Yes.

11 Q Did he tell you he was going to ask the
12 Chief to resign before he did it?

13 A (Pause) So the question again is?

14 Q Did Ed Gormley tell you before he asked
15 the Chief to resign, did he tell you, "I'm going to
16 ask the Chief to resign"?

17 A Yes.

18 Q All right. So you asked Ed Gormley to
19 seek the resignation of Chief McFarlin, Ed Gormley
20 told you he was going to do it at some point, and
21 then afterwards he told you he had done it,
22 correct?

23 A Yes.

24 Q All right. Did you ever give anything in
25 writing to Ed Gormley asking him to seek the

1 Q The second meeting, correct?

2 A I don't -- I can't remember.

3 MR. MILLS: Did you say "a second
4 meeting" or "the second meeting"?

5 Q (By Mr. Kay) Was this a second meeting
6 with Ed Gormley at his plumbing office?

7 A Yes.

8 Q Okay. So you asked Ed Gormley in person
9 orally, you just said, "I want you to get the
10 Chief's resignation," and then in another meeting
11 you had at the plumbing office you gave him a
12 written request for the Chief's resignation,
13 correct?

14 A Yes.

15 Q Okay. Now, those requests were given by
16 you to Ed Gormley as the Mayor of the City? In
17 other words, and I'm not being facetious, you're
18 not asking him to do this as a plumbing contractor,
19 you're asking him to do this as the Mayor of the
20 City of McMinnville?

21 A Yes.

22 Q All right. And so your written request
23 was directed to the Mayor of the City, right?

24 A I gave it to him.

25 Q Did you intend it to be directed to him

1 resignation or the termination of Chief McFarlin's
2 employment?

3 A Okay, repeat the question.

4 Q Did you ever give anything in writing to
5 Ed Gormley which asked for Chief McFarlin's
6 resignation or termination?

7 A I did. Yes, I did.

8 Q When did you do that?

9 A I -- end of -- end of October, or
10 November.

11 Q The end of October or November of 2005?

12 A I -- yes, I -- I believe that's accurate,
13 but --

14 Q And --

15 A -- I'm not -- I'm not certain.

16 Q So it might have been earlier than that?

17 A Yes.

18 Q Where did you give this written request
19 for the Chief's resignation to Ed Gormley? Where
20 were you when you gave this written request for the
21 Chief's resignation to Ed Gormley?

22 A In Ed's office.

23 Q Was it the same meeting at the plumbing
24 office you mentioned earlier?

25 A No.

1 as the Mayor of the City?

2 A Yes.

3 Q And you kept a copy of your written
4 request that you've referred to, right?

5 A Yes.

6 Q And you gave that to your attorney?

7 A Yes.

8 Q And that's been provided to us, right, as
9 far as you know?

10 A (Pause)

11 Q You assume it's been provided to us?

12 A Yes.

13 Q Okay. Have you ever written anything
14 else in a letter, a memo or an e-mail to Ed Gormley
15 requesting Chief McFarlin's resignation or
16 termination from office?

17 A No.

18 Q Just that one two-page document?

19 A Yes.

20 Q Is everything you stated in that two-page
21 document truthful, as far as you know?

22 A Yes.

23 Q Did you intend the Mayor to rely on what
24 you were giving him in -- in seeking the Chief's
25 resignation?

1 A No.
 2 Q Did he say anything about the questions
 3 he was asked?
 4 A No.
 5 Q Did he tell you anything about what had
 6 occurred involving Chief McFarlin's termination
 7 from office?
 8 MR. MILLS: Are you talking about in
 9 the conversation he's recounting?
 10 MR. KAY: Yes.
 11 THE WITNESS: No.
 12 Q (By Mr. Kay) Did he tell you that he
 13 was not permitted to talk to you about any of those
 14 subjects?
 15 A Yes.
 16 Q What did he say?
 17 A He said he can't talk about it.
 18 Q Were you asking and he said, "I can't
 19 talk about it"?
 20 A No.
 21 Q He just offered that on his own?
 22 A That's correct.
 23 Q All right. Who else was present when you
 24 had this conversation with him?
 25 A Nobody.

1 Q Where were the two of you?
 2 A I was in my office.
 3 Q He came to visit you?
 4 A He was in Mexico.
 5 Q You said the discussion was in your
 6 office.
 7 A I had a telephone.
 8 Q Well, I thought you were in person,
 9 excuse me. So he called you from Mexico?
 10 A Yes.
 11 Q Okay. You've testified to two occasions
 12 on which you asked Ed Gormley to seek the
 13 resignation of Chief McFarlin, were there any other
 14 times you requested Ed Gormley to obtain the
 15 Chief's resignation?
 16 A No.
 17 Q You sure?
 18 A (Pause) I don't know.
 19 Q So on the two or maybe more occasions you
 20 asked Ed Gormley to seek the Chief's resignation,
 21 why did you do it?
 22 MR. MILLS: Objection, form of
 23 question.
 24 Q (By Mr. Kay) Why did you ask Ed Gormley
 25 to seek the Chief's resignation?

1 A I -- as a citizen I went out and did a --
 2 on my own did a review of the accomplishments of
 3 the Chief, and after I completed that I gave him
 4 what I learned and my opinion as a citizen.
 5 Q That's why you asked for the resignation?
 6 A Uh-huh. Yes.
 7 Q When did you conduct this review of the
 8 Chief's accomplishments?
 9 A Latter part of May of 2005.
 10 Q Did you prepare anything in writing?
 11 MR. MILLS: Are you talking about as
 12 a result of the review?
 13 MR. KAY: Yes.
 14 Q (By Mr. Kay) As a result of your review
 15 of the Chief's accomplishment, did you prepare
 16 anything in writing?
 17 A You told me you had a document --
 18 MR. MILLS: "Yes" or "no."
 19 THE WITNESS: Yes, I did, yes.
 20 Q (By Mr. Kay) And is the written review
 21 that you did of Chief McFarlin's accomplishments
 22 contained in the document you gave to Ed Gormley?
 23 A Yes.
 24 Q So you did it in May of 2005, correct?
 25 A Started.

1 Q You started it, when did you finish it?
 2 A Uhm, sometime in October.
 3 Q So between May and October you'd
 4 conducted your own review of the Chief's
 5 accomplishments and reduced it to your -- or put it
 6 into the document you gave Ed Gormley, correct?
 7 A Yes.
 8 Q All right. Now, you're a citizen of the
 9 city of McMinnville?
 10 A Yes.
 11 Q Okay. And as a citizen of the city of
 12 McMinnville you were doing this review?
 13 A Yes.
 14 Q And as a citizen of the city of
 15 McMinnville you were requesting that the Chief be
 16 required to resign from office, correct?
 17 A Yes.
 18 Q Okay. Now, as a citizen of the city of
 19 McMinnville what did you do in conducting this
 20 review?
 21 A I talked to people.
 22 Q What else?
 23 A That's about it.
 24 Q Did you look at any paperwork?
 25 A Yes.

1 Q Why didn't you mention that a moment ago?
 2 A Uhm, --
 3 MR. MILLS: Object, argumentative.
 4 Q (By Mr. Kay) Well, I asked you what you
 5 had done and you said you'd talked to people, and
 6 you didn't add looking at paperwork.
 7 MR. MILLS: Objection, argumentative.
 8 THE WITNESS: My mistake then.
 9 Q (By Mr. Kay) Okay.
 10 A I did, yes.
 11 Q Okay. So what people did you talk to in
 12 reviewing Chief McFarlin's accomplishments?
 13 A The people that I've talked to, I gave
 14 them my word that I would not expose them and that
 15 I would not tell anybody who I talked to, and I
 16 gave them my word that I wouldn't do that; at this
 17 time I wouldn't be prepared to.
 18 Q Did you -- at the time you're not
 19 prepared --
 20 A To -- to give names.
 21 Q You don't intend to give any names? If I
 22 ask them you'll refuse, is that right?
 23 A If you would do what?
 24 Q If I ask you who those people are you'll
 25 refuse?

1 A I would.
 2 Q Okay. Now, how many people did you talk
 3 to, more than five, less than 20?
 4 A Less than 20.
 5 Q More than ten?
 6 A Yes.
 7 Q Did you tell Ed Gormley you were going to
 8 be doing this review before you started?
 9 A No.
 10 Q Did Ed Gormley ask you to do this review?
 11 A No.
 12 Q Did anybody ask you to do it?
 13 A No.
 14 Q You took it upon yourself?
 15 A Yes.
 16 Q Did you ever tell anybody you were doing
 17 the review other than the people you promised to
 18 keep confidential -- whose names you say you've
 19 promised to keep confidential?
 20 A Yes.
 21 Q Who?
 22 A Uhm, Rod Brown and Lee Vasquez.
 23 Q You told Rod Brown and Lee Vasquez you
 24 were conducting this review of the Chief's
 25 accomplishments, correct?

1 A Yes.
 2 Q When did you tell Rod Brown that, before
 3 you started or while you were doing it?
 4 A (Pause) Before -- I can't remember.
 5 Q A little bit before you started or during
 6 it, it's one of the two?
 7 A Very close, yes.
 8 Q All right. Same answer as to Lee
 9 Vasquez?
 10 A Probably maybe a month after I started.
 11 Q Okay. Why did you tell Rod Brown?
 12 A He was in my office, we were taking care
 13 of some business, electrical business on a house,
 14 and when we got through I told him that I was going
 15 to do a review. And he wanted to know why, and I
 16 told him that I wanted to do it and maybe there
 17 ought to be some changes made.
 18 Q You told Rod Brown that?
 19 A Uh-huh.
 20 Q A little before you did it or shortly
 21 after you began, correct?
 22 A Yes.
 23 Q And why did you tell Rod Brown you
 24 believed you needed to conduct this review of the
 25 Chief's accomplishments?

1 A Because he was the ex-Chief, and I just
 2 made a statement to him.
 3 Q You told him because he was the ex-Chief?
 4 A Yes.
 5 Q He'd been required to resign earlier, is
 6 that right?
 7 A I don't know that.
 8 Q So you told Rod Brown you were doing this
 9 review because he was the ex-Chief, and why did you
 10 tell Lee Vasquez?
 11 A I need -- I was overwhelmed with
 12 information, and I asked him for some help.
 13 Q Did he help you?
 14 A Yes.
 15 Q What did he do?
 16 A He had some interviews with me.
 17 Q How many?
 18 A I can't remember -- or I don't know.
 19 Q You were overwhelmed with the amount of
 20 information you were getting?
 21 A Yes.
 22 Q How did you decide who to contact to
 23 conduct your review of the Chief's accomplishments?
 24 A I made my pager available to the people
 25 that wanted to talk to me.

1 Q And put out the word you were willing to
 2 talk to people?
 3 A Uh-huh.
 4 Q How did you put out the word?
 5 A I think the -- Rod Brown made a -- a
 6 couple of contacts, I believe.
 7 Q So Rod Brown put out the word -- Rod
 8 Brown put out the word for you?
 9 MR. MILLS: Objection, form of
 10 question, mischaracterizes the testimony.
 11 Q (By Mr. Kay) Well, I asked you how you
 12 put the word out, and were you telling me that Rod
 13 Brown put the word out for you?
 14 A All I know is I -- I would get a page
 15 with the number in it, I would call it, and I was
 16 asked if the people could come talk to me.
 17 Q Was that Rod Brown's suggestion?
 18 A Uhm, that was my suggestion.
 19 Q It was your suggestion to Rod Brown that
 20 he give out your pager number, is that right?
 21 MR. MILLS: Is that a question?
 22 MR. KAY: Yes, that's a question.
 23 THE WITNESS: Yes.
 24 Q (By Mr. Kay) Okay. And then he did it?
 25 MR. MILLS: Did what?

1 Q (By Mr. Kay) He -- did Rod Brown tell
 2 you that he had given folks your pager number?
 3 A He told me that, yes, it was given out.
 4 Q Okay. And as a result of you telling Rod
 5 Brown your pager number and that you were available
 6 to get calls did you get contacted by 10 to 20
 7 people?
 8 A Yes.
 9 Q All right. And you talked with 10 to 20
 10 people?
 11 A Yes.
 12 Q Were they all employees of the Police
 13 Department?
 14 A No.
 15 Q Were more than half of them?
 16 A Uhm, say the -- the question again.
 17 Q Were more than half of the people you
 18 spoke with employees of the Police Department?
 19 A No.
 20 Q Were any of them?
 21 A Yes.
 22 Q How many?
 23 A Four.
 24 Q And all the others were not employees of
 25 the Police Department, correct?

1 A Correct. Yes.
 2 Q What's your work phone number?
 3 A 503-472-2186.
 4 Q Home phone?
 5 A 472 -- excuse me, 503-472-5237.
 6 Q Cell phone number?
 7 A 503-550-1491.
 8 Q Pager number?
 9 A 503-434-6969.
 10 Q Any other phone numbers where you can be
 11 reached? Do you have phone numbers at vacation
 12 homes or second homes or third homes?
 13 A No. I do have a number of 472 -- or,
 14 excuse me, 503-472-4271.
 15 Q What number is that?
 16 A That's a telephone in the shop at my
 17 home.
 18 Q In your workshop at home?
 19 A Uh-huh. Yes.
 20 Q Okay. Is that kind of -- is that your
 21 personal work line at home?
 22 A No.
 23 Q It's a second home phone number?
 24 A I don't live there.
 25 Q Well, I know that. Oh, the shop's in

1 another location?
 2 A Yes.
 3 Q Okay. Any other phone numbers where you
 4 can be reached?
 5 A No.
 6 Q "No"?
 7 A No.
 8 Q Do you have an e-mail address?
 9 A Yes.
 10 Q What is it, please?
 11 A It's waldo@farnhamelectric.com.
 12 Q Is that the only e-mail address that you
 13 have?
 14 A Yes.
 15 Q And what computers in the last year have
 16 you received or sent e-mail from? Well, let's --
 17 do you have a home computer?
 18 A No.
 19 Q Do you have an office computer?
 20 A No.
 21 Q Do you have any computers?
 22 A No.
 23 Q Why do you have an e-mail address?
 24 A Because people like to talk to me.
 25 Q Well, for these people who like to talk

1 Q Okay. So at least as far as what you
2 witnessed he didn't make a promise to keep
3 confidentiality with these people, would that be
4 accurate?
5 A Yes.
6 Q Did you get any legal advice from anybody
7 before you started conducting this review?
8 A No.
9 Q Did you get any legal advice while you
10 were carrying on this review?
11 A No.
12 Q Did you have any idea in your own mind as
13 to whether your promise of confidentiality would
14 stand up if you were in a deposition like this
15 under oath?
16 MR. MILLS: Objection, form of
17 question, "stand up."
18 Q (By Mr. Kay) Well, let me -- you're
19 under oath and you have to answer questions that
20 are put to you unless your attorney feels there's a
21 sufficient basis to instruct you not to answer, and
22 if we disagree about that we go to a judge and the
23 judge decides whether you have to answer. And all
24 I'm trying to find out, Mr. Farnham, is if you had
25 ever thought to yourself about whether your promise

1 A (No response.)
2 Q Their names, please.
3 A I'm not going to tell you.
4 Q You're under oath and required to answer
5 my questions, Mr. Farnham.
6 MR. MILLS: Well, I don't think
7 that's a correct statement of the law, but you can
8 go ahead.
9 Q (By Mr. Kay) Please give me the names
10 of the people that you spoke with conducting this
11 review of the accomplishments of Chief McFarlin.
12 MR. MILLS: I think the record's
13 clear he's not going to tell you without a judge's
14 order, so you might --
15 MR. KAY: Well, I'm just getting
16 it -- I'm just getting it crystal clear, this is
17 kind of a unique situation.
18 MR. MILLS: I think it is crystal
19 clear.
20 THE WITNESS: I can't do that.
21 MR. MILLS: He's informed me he's not
22 going to break his promise unless the judge orders
23 him to do so.
24 MR. KAY: Okay, I didn't know he'd
25 informed you of that.

1 of confidentiality to these people would be
2 ironclad and could not be -- and you could not be
3 forced to give the names?
4 A I gave them my word.
5 Q But you didn't think through the legal
6 implications of that?
7 A No.
8 Q Okay. If I ask you to tell me the names
9 of the people you spoke with will you refuse?
10 A Yes.
11 MR. MILLS: Objection, asked and
12 answered.
13 Q (By Mr. Kay) Okay. And will you only
14 answer if a judge orders you to do it?
15 A Yes.
16 MR. KAY: Counsel, I'm going to ask
17 him for the names, are you going to instruct him
18 not to answer?
19 MR. MILLS: I'm not going to instruct
20 him not to answer, no.
21 MR. KAY: Okay, as a courtesy I was
22 just asking.
23 MR. MILLS: No.
24 Q (By Mr. Kay) Who were the individuals
25 you spoke with in your review, Mr. Farnham?

1 MR. MILLS: Yes, he has.
2 MR. KAY: All right, thank you for
3 making that clear.
4 Q (By Mr. Kay) Did you ever demand or
5 request Ed Gormley to get a drug dog in the Police
6 Department?
7 A Yes.
8 Q When?
9 A Sometime in May of 2005.
10 Q And did he?
11 A No.
12 Q Did that make you mad?
13 A Yes.
14 Q Is that one of the reasons you started
15 this review of the Chief's accomplishments?
16 A Yes.
17 Q Did you think the -- Ed Gormley had to
18 get a drug dog if you asked him to?
19 A Say the question again.
20 Q Did you believe Ed Gormley would have to
21 get a drug dog if you asked him to?
22 A No.
23 Q Did he say why he wouldn't do it or
24 didn't do it?
25 A (Pause) I think I'm confused.

1 Q About what?
 2 A Can we --
 3 Q Start over?
 4 A Back at the drug dog thing.
 5 Q Yeah. You said you demanded or requested
 6 of Ed Gormley to get a drug dog in the Police
 7 Department at McMinnville, right?
 8 A I did not demand Ed Gormley to get a drug
 9 dog.
 10 Q You requested he get a drug dog, didn't
 11 you?
 12 A Yes.
 13 Q Okay, so you requested he get --
 14 "demand," "request," you requested the Mayor to get
 15 a drug dog in the Police Department --
 16 A Yes.
 17 Q -- in May of 2005?
 18 A Yes.
 19 Q Right. And he didn't do it, right?
 20 A The drug dog was in -- didn't get
 21 immediately bought.
 22 Q And you got mad because it didn't get
 23 immediately bought?
 24 A No.
 25 Q Well, why did you get mad?

1 A I sat in a -- I had talked to
 2 Chief McFarlin about a drug dog and pointed out to
 3 him that there was two available in Yamhill County,
 4 and I was at a meeting of the School Board, joint
 5 meeting of the School Board and City Council, and
 6 the Chief explained to them that there was no drug
 7 dogs in Yamhill County, thus there would be no --
 8 no drug sniffing at the high school.
 9 Q And why did that make you mad?
 10 A Because there were drug dogs in Yamhill
 11 County.
 12 Q All right, let's back up. You wanted a
 13 drug dog in the Police Department, right? I'm just
 14 going to go through this. You wanted a drug dog in
 15 the Police Department, correct?
 16 A I wanted the schools to be drug --
 17 somehow drug tested ordered by the Chief.
 18 Q Please answer my question. You wanted a
 19 drug dog in the Police Department, correct?
 20 A (Pause)
 21 MR. MILLS: I'm going to object, it's
 22 been asked and answered.
 23 MR. KAY: He hasn't answered yet.
 24 MR. MILLS: Yes, he did.
 25 Q (By Mr. Kay) I appreciate you want the

1 lockers sniffed for drugs, but my question,
 2 Mr. Farnham, is did you want a drug dog in the
 3 Police Department, "yes" or "no"?
 4 A I guess I don't care if the Police
 5 Department had a drug dog, but I wanted the schools
 6 looked after.
 7 Q Okay. But you asked Ed Gormley to get a
 8 drug dog in the Police Department so that drug dog
 9 could go sniff the lockers in the high school for
 10 drugs, right?
 11 A (Pause) If McMinnville Police Department
 12 was going to sniff the drugs they would need to
 13 have a drug dog, and, yes, I thought that they
 14 would need to have a drug dog if -- in the Police
 15 Department if they were going to go sniff, uhm,
 16 drugs at the high school.
 17 Q And you told Ed Gormley -- did you tell
 18 Ed Gormley, "I want a drug dog to go sniff the
 19 lockers in the high school before school is out
 20 here in the spring of 2005"?
 21 A Repeat the question.
 22 Q Well, in -- school's just about out,
 23 there's just a few weeks of school left here in
 24 McMinnville in the spring of 2005, and -- and
 25 didn't you want the drug dog to go in and sniff the

1 lockers at the high school, and you asked Ed
 2 Gormley to get a drug dog to do this, right?
 3 MR. MILLS: Objection, compound.
 4 MR. KAY: I'm just trying to expedite
 5 it.
 6 Q (By Mr. Kay) Isn't that what happened,
 7 Mr. Farnham?
 8 A No.
 9 Q Did you ask Ed Gormley to do anything
 10 about getting a drug dog to go sniff lockers in the
 11 school -- schools before they ended the 2005 school
 12 year?
 13 A I told Mr. Gormley that I would like to
 14 add a drug dog to go sniff the lockers at the high
 15 school.
 16 Q Before the school year ended in 2005?
 17 A Yes.
 18 Q All right. But he did -- did he say he
 19 would do it or not?
 20 A No.
 21 Q He did not say he would do it?
 22 A No.
 23 Q He just listened to you, and then you
 24 learned later they didn't get a drug dog and sniff
 25 the lockers before the school year was over, right?

1 THE WITNESS: Okay.
 2 (Off the record)
 3 (Deposition concluded)
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1 STATE OF OREGON)
 2) ss.
 3 County of Marion)
 4
 5 I, Sally Parrish, Court Reporter and
 6 Notary Public for Oregon, certify that WALDO
 7 FARNHAM appeared before me at the time and place
 8 set forth in the caption hereof; that at said time
 9 and place I reported in stenotype all testimony
 10 adduced and other oral proceedings had in the
 11 foregoing matter; that thereafter my notes were
 12 reduced to typewriting by me, and the foregoing
 13 reporter's transcript, consisting of 102
 14 consecutive pages, constitutes a full, true and
 15 accurate record of such testimony adduced and oral
 16 proceedings had and of the whole thereof.
 17 Witness my hand and Notary Public seal
 18 at Salem, Oregon, this 29th day of October, 2006.
 19

20 Sally Parrish, Court Reporter
 21 Notary Public for Oregon
 22 My Commission Expires 1/17/10
 23
 24
 25

CORRECTION SHEET

1
 2 PAGE LINE CORRECTION
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 14

15 I hereby certify that I have read the foregoing
 16 deposition and that this deposition, together with
 17 the corrections, is a true and accurate record of
 18 my testimony given at this deposition.

19 _____
 20 WALDO FARNHAM

21 Subscribed and sworn to before me this _____
 22 day of _____, 2006.
 23

24 _____
 25 Notary Public for Oregon
 Commission expires:

The following are observations recently offered by a number of present and past McMinnville Police Department employees regarding Wayne McFarlin's performance as Chief:

- 1) Morale at present is lower among staff today than it was over a year ago when the police association contemplated a vote of no-confidence against the Chief of Police.
- 2) Some present and former staff report that they do not find Chief McFarlin as either credible or trustworthy. A few suggest that he has been dishonest in some of his dealings with them. They note that he frequently uses manipulation to play one staff member against another in order to cement his power over them all.
- 3) A number suggest that Chief McFarlin approaches problems by "spinning" the facts in such a manner as to point the blame and responsibility away from himself. They note that the Chief frequently directs actions and then challenges staff by asking why they did what they did. They say that, in such cases, the Chief denies making the initial request—thus making them wrong for following the original order.
- 4) Both past and present staff point to Chief McFarlin's practice of assigning work plans as a disguised manner of discipline as particularly unfair. They note that it is his common practice to establish a work plan and, *without consulting the affected staff member*, adding to and changing the plan. The result is that staff fail in compliance because they are unaware of expectations.
- 5) These same staff note that Chief McFarlin does not welcome ideas, comments or suggestions, and, in fact, it is their sense that staff who disagree are targeted for consequences. His method is to openly ask for input during a meeting and then methodically direct and tell them what their opinion is going to be thereby making the members responsibility should the decision fail.
- 6) Staff also point out that Chief McFarlin does not complete background checks on Reserve Officers until after they have completed the Academy. In cases when candidates eventually fail their background checks, the result is considerable waste of time and money that could have been avoided had checks been done prior to training.

The following are my conclusions and concerns based on these discussions:

I note several questionable/unnecessary purchases:

- New handguns were purchased for all department members at a cost of approximately \$ 29,000.00 when existing guns were completely serviceable. (Note that old guns were sold to members at a reduced price—should the public have been offered this same opportunity?)
- New expensive low-profile light bars were purchased at approximately \$ 2,200.00 each when existing bars were still serviceable.
- Failure to consider making use of motorcycle(s) at approximately \$600.00/year in favor of much more expensive sedans for traffic enforcement.

EXHIBIT

PAGE

1

OF

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I seriously question the veracity of Chief McFarlin when he went before a joint meeting of the City Council and the School Board claiming that no drug dogs were available within the county in response to the request for such a dog to search lockers and cars at McMinnville H.S. In point of fact, certified drug dogs are available in surrounding police departments, including the Salem Police Department from which he came, who would be willing to assist the McMinnville Police Department. Additionally, the city of McMinnville already does own a trained drug dog which only needs to be certified in order to do this work.

Subsequently, after the Council made such funds available, the Chief went forth to request citizen donations for a drug dog, fronting with the claim that this was the only means of replacing the retired city drug dog. Among the many responses was one from a retiree who donated her entire Social Security check to this cause! It seems to me that the city should reimburse all those who donated drug dog money, as they have already paid their fair share through city property taxes.

Further to this, Chief McFarlin has now appointed a drug dog handler who lives in Salem. This means that he will be using a city car to travel back and forth to his home—on the city's dime! This does not seem to be to good stewardship of our city's limited funds.

Chief McFarlin continues to micromanage the police department, as well as the YCINT team in his position as board chair. An example of this was recently evident in the News Register where Chief McFarlin stated the YCINT board had authorized the "Mole's" approach, when, in fact, this is not the board's role. It is evident that he, himself, intervened to authorize this tactic.

Overall—to stress their discomfort with the current administration—those I interviewed went to far as to say that, given a choice between a new building and a new Chief, they would opt for a new Chief.

The performance of Chief McFarlin is ineffective, inefficient, and intolerable and action should be taken immediately.

W.F.

EXHIBIT

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